

***United States Court of Appeals
for the Second Circuit***



APPENDIX

NO. 75-4231

United States Court of Appeals FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

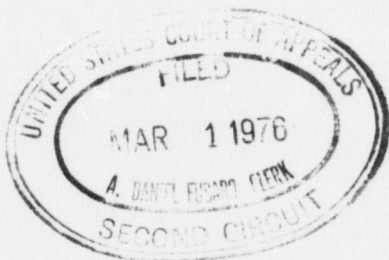
v.

AMSHU ASSOCIATES, INC.,

Respondent.

On Application for Enforcement of an Order of
the National Labor Relations Board

APPENDIX



ELLIOTT MOORE,
Deputy Associate General Counsel,
National Labor Relations Board.
Washington, D.C. 20570

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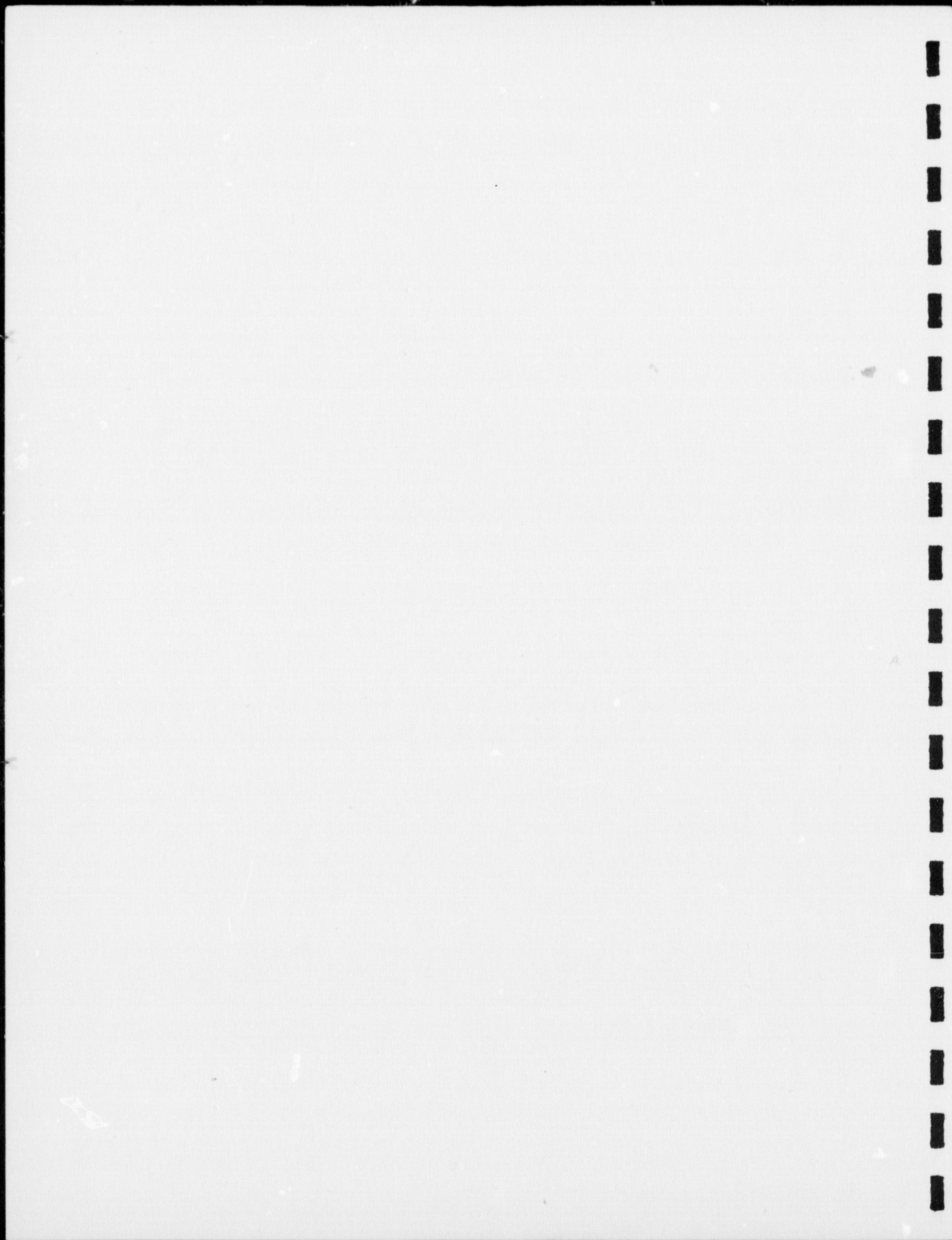
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APPENDIX

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

-----X
AMSHU ASSOCIATES, INC., AND :
SPRING VALLEY GARDEN ASSOCIATES :

and

: Cases 2--CA -- 13401 and
: 2--CA --13422

BUILDING SERVICE EMPLOYEES INTERNATIONAL :
UNION, LOCAL 32E, AFL--CIO :
-----X

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the Matter of: Amshu Associates, Inc.,

Case Nos. : 2-CA -13401 & 2-CA -13422

| | |
|----------|---|
| 8. 2.74 | Charge filed in case no. 2-CA -13401 |
| 8.22.74 | Charge filed in case no. 2-CA -13422 |
| 10.30.74 | Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, dated |
| 11.18.74 | Hearing opened |
| 1. 9.75 | Hearing closed |
| 1.14.75 | Respondent's Request to Postpone Hearing, dated |
| 3.31.75 | Administrative Law Judge's Decision, dated |
| | Respondent's Exceptions, received |
| 6.25.75 | Board's Decision and Order, dated |

[Dated 6/25/75]

[D--74
Spring Valley, N. Y.]

* * * * *

DECISION AND ORDER

On March 31, 1975, Administrative Law Judge Sidney J. Barban issued the attached Decision in this proceeding. Thereafter, the Respondent filed exceptions and a supporting brief, and the General Counsel filed a brief in support of the Administrative Law Judge's Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that Respondent Amshu Associates, Inc., Spring Valley, New York, its officers, agents, successors, and assigns, shall take the action set forth in the Administrative Law Judge's recommended Order.

Dated, Washington, D. C. JUN 25 1975

John H. Fanning, Member

Ralph E. Kennedy, Member

John A. Penello, Member

NATIONAL LABOR RELATIONS BOARD

(SEAL)

[JD-172-75
Spring Valley, N. Y.]

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
WASHINGTON, D. C.

-----X
AMSHU ASSOCIATES, INC., and
SPRING VALLEY GARDENS ASSOCIATES^{1/}

Respondents

and

BUILDING SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 32E, AFL-CIO

Charging Party
-----X

Case No. 2-CA -13401

Case No. 2-CA -13422

* * * * *

1/ The caption is as set forth in Respondent's brief. The complaint was originally issued only against Amshu Associates, Inc. (herein "Amshu"). Respondent's counsel contended that the matters involved in Case No. 2-CA -13401 pertain to an employee employed by Amshu but that Case No. 2-CA -13422 pertains to an employee employed by Spring Valley Gardens Associates (herein "Spring Valley Associates"). Counsel asserted that he was authorized to represent Spring Valley Associates as well as Amshu. and agreed that that the trial should proceed as if the charge and complaint in Case No. 2-CA -13422 had been duly filed against and served upon Spring Valley Associates. The relationship between the two employers will be considered hereinafter.

DECISION

Statement of the Case

SIDNEY J. BARBAN, Administrative Law Judge: This matter was heard at New York, New York, on November 18, 19, December 12, 1974, and January 6, 7, 9, 16, 1975. The Order Consolidating Cases and Consolidated Complaint was issued on October 30, 1974 (based upon a charge filed in Case No. 2-CA-13401 on August 2, 1974, and upon a charge filed in Case No. 2-CA-13422 on August 22, 1974). As developed at the hearing, the consolidated complaint alleges (pursuant to the charge in Case No. 2-CA-13401) that Mark Weidman,^{2/} vice president of Amshu, interrogated its employee concerning union activities, and threatened discharge and other reprisals if the employee engaged in union activities, and that Respondent Amshu discharged Thomas Hopkins because of his union or other concerted activities, in violation of Sections 8(a)(1) and (3) of the Act, and (pursuant to the charge in Case No. 2-CA-13422) that David Bleiberg, an agent of Spring Valley Associates, interrogated an employee concerning his union activities in violation of Section 8(a)(1) of the Act. Respondents' answer denies the commission of the unfair labor practices alleged.

Upon the entire record in this case, from observation of the witnesses and their demeanor, and after due consideration of the briefs filed by the General Counsel, and the Respondents, I make the following:

^{2/} Incorrectly spelled "Wideman" in the transcript.

Findings and Conclusions

I. The Operations of Respondents

Respondent Amshu is a New York corporation with its main offices located at Woodbridge, New Jersey.^{3/} It is engaged in the construction and operation of certain apartment developments. One of these developments, located in Spring Valley, New York, is known as Sleepy Hollow Gardens. Amshu also owns and operates a high-rise condominium located nearby. The shareholders and officers of Amshu are the following: Sam Halpern, president, Mark Weidman, vice president, Harry Wilf, secretary, Meyer Gold, Jacob Burstyn (one or the other is treasurer), Arie Halpern, Joseph Wilf.

Respondent Spring Valley Associates is a partnership, with its main office located at Woodbridge, New Jersey, in the same place as Respondent Amshu. The partners are: Sam Halpern (referred to as the senior partner), Mark Weidman, Harry Wilf, Meyer Gold, Jacob Burstyn, and Leonard Wilf, Frederick Halpern. It is engaged in the construction and operation of certain apartment developments. One of these, located in Spring Valley, New York, known as Spring Valley Gardens, is about a mile and a half from Sleepy Hollow Gardens.

Labor policy for both Amshu and Spring Valley Associates is made in New Jersey basically by the same persons, and transmitted by Sam Halpern to Mark Weidman, who executes that policy for both Respondents with respect to their operations

^{3/} Also referred to as Newbridge and Woodridge in the transcript.

in Spring Valley, New York, which are the only operations involved here. Both Respondents utilize the same office staff in New Jersey^{4/} and apparently interchange managerial personnel in Spring Valley. David Bleiberg, admittedly a supervisory agent of Spring Valley Associates during times material to this matter, testified that he was transferred by the main office in New Jersey from Spring Valley Gardens to Sleepy Hollow Gardens where he was employed by Amshu. He stated that he considered the two employers to be the same. Also, William Leflein, who, in his capacity as Assistant Vice President of Amshu, signed a letter notifying Thomas Hopkins of his discharge, it is also mentioned by Elisha Carr, an employee of Spring Valley Associates, as giving him assurances as to his job status.

It is admitted that Amshu and Spring Valley Associates each in the operation of the Sleepy Hollow Gardens complex and the Spring Valley Garden apartment complex respectively, derive gross revenues from said apartment complexes on an annual basis in excess of \$500,000, and that each caused goods and materials of a value in excess of \$50,000 in a recent annual period to be transported in interstate commerce to its respective

^{4/} Mark Weidman testified that a number of other companies utilize the same staff at the same location. In the absence of any other evidence, the record would lead me to believe that these other companies likely involve many of the same persons involved with Respondents. Thus it is noted that another company involved in the Spring Valley operations, Spring Valley Gardens, Inc., composed of many of the persons previously named, served as the intermediary for Spring Valley Associates in the purchase of property for the apartments.

apartment development in Spring Valley. It is admitted that both employers are engaged in commerce within the meaning of the Act.

Based upon the above, and the entire record in this matter, it is found that Amshu and Spring Valley Associates for the purposes of this proceeding constitute a single employer engaged in commerce within the meaning of Sections 2(6) and (7) of the Act.

II. Labor Organization

It is admitted, and I find that Building Service Employees International Union, Local 32E, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

III. Summary of Facts and Issues

a. The conditions of employment

In September 1973, while Sleepy Hollow Gardens apartments were still under construction, and before any tenants had moved in, Thomas Hopkins applied for the position of resident superintendent in response to an advertisement for the position. Accompanied by his wife, Hopkins was interviewed and hired by David Halpern, then associated with Amshu as a builder. The arrangements with Hopkins are of some significance. At the outset, he was to assist the builders in finishing up the work, and preparing individual apartments for occupancy. As tenants began to come in, Hopkins' assistance to the builders diminished and his responsibilities for tenants' complaints increased. Occupancy by tenants began in late September or October. By June 22, 1974, when Hopkins was terminated, there were 100 tenants at the Sleepy Hollow Gardens apartments.

Hopkins was assigned a regular 8-hour work day, 5 days a week, but it was understood that he would be available to take care of emergency complaints from tenants 24 hours a day, 6 days a week.^{5/} To facilitate this, Hopkins was given an apartment in the development as part of his compensation. It was understood that the position required a resident superintendent, and although I am convinced that the matter was not specifically discussed when Hopkins was employed, there is no question but that he understood that Amshu expected his wife to move into the apartment with him. As Hopkins himself stated, "My wife has been with me the 26 years I have been a super, . . . and I won't at this stage of the game be without her. I don't think I or any other super could run a new building without his wife there." Thus, among other things, the resident superintendent's wife is available to take calls and relay messages when the superintendent is necessarily absent.

b. The residency issue

One of the principal reasons assigned by Amshu for the discharge of Hopkins is its assertion that Mrs. Hopkins did not move into the apartment with her husband as expected.

^{5/} Hopkins' day off from September 1973 to the latter part of December was Sunday. This was changed to Wednesday in January, February and March, then to Saturday for a very short time, and then back to Sunday from April until Hopkins was discharged. Significantly, on Hopkins' day off, Amshu did not provide a replacement to service the tenants' complaints. It was also understood that Hopkins could take time off during the evening for personal reasons, so long as these occasions were not too frequent or extended.

Amshu asserts, and Hopkins denies, that management frequently complained of this to him. Hopkins, his wife, and other supporting witnesses testified that Mrs. Hopkins moved into the apartment with her husband shortly after her husband was hired and lived there with him until his discharge. Respondent Amshu's management and other witnesses, however, gave testimony to the effect that Mrs. Hopkins did not live in the Sleepy Hollow Gardens apartment, but apparently resided at a home in Yonkers, New York, owned by Hopkins and occupied by their son. Amshu additionally asserts that Hopkins also stayed at the Yonkers home in the evening, and thus was unavailable for emergency calls from tenants. To the contrary, Hopkins, his wife and son testified that Hopkins and his wife visited the Yonkers home only on Hopkins' day off.

In support of its contention that Hopkins and his wife were not living at Sleepy Hollow Gardens, Amshu adduced considerable testimony to the effect that there was little furniture in the apartment, no bedroom furniture, and there was an array of tools, materials and appliances (to be installed by Hopkins in apartments as they became tenanted) stored in Hopkins' apartment, which indicated that the apartment was not being lived in on a regular basis. Hopkins, his wife, and other supporting witnesses, on the other hand, testified that the apartment contained a full set of bedroom furniture, as well as some other furniture.^{6/} Hopkins explained that he kept

^{6/} Mrs. Hopkins attributed the meagreness of the livingroom and dining furniture to the fact that their possessions had recently been burned.

tools and appliances (which he was expected to install) in his own apartment for security and convenience, since Amshu did not provide him with a secure workshop until May 1974. Hopkins asserts that his wife complained of the condition of the apartment.

c. Union activities involving Amshu
and Spring Valley Associates

Shortly before June 24, 1974 (all dates hereinafter in 1974, unless otherwise noted), Hopkins had a conversation with Weidman, the vice president of Amshu, in which Hopkins complained that he needed assistance in covering his job. Weidman stated that Amshu could not afford it.^{7/} Hopkins stated that this induced him to go to the Union on June 24 to sign up (he had been carrying a withdrawal card from the Union for a long time). On the same date, the Union sent Amshu a letter advising that the employees at Sleepy Hollow Gardens had designated the Union as their bargaining representative, and requested bargaining. On the following day, June 25, Weidman and the Union attended a proceeding before the New York State Labor Relations Board, apparently a representation

^{7/} Amshu asserts that during the period of Hopkins employment, he was given certain assistance. The issue seems significant with respect to the assessment of credibility problems, and has been duly considered for that purpose.

proceeding involving Spring Valley Gardens. The Union having also filed a petition with the State Board for certification at Sleepy Hollow Gardens, Kenneth L. Childers, a business agent of the Union, sought to have Weidman agree that the two proceedings should be held together. Upon Childers' informing Weidman that Hopkins had signed up with the Union, Weidman replied that he intended to discharge Hopkins because "he is not living there. He didn't move in." Childers warned Weidman not to do this. Weidman asserts that after making a telephone call during this period, Childers said he had found out that Hopkins was not living at Sleepy Hollow apartments. Childers denied this. I credit Childers.^{8/} During this same conversation, Weidman threatened to dock the pay of George Schmidt, the resident superintendent at Spring Valley Gardens, for attending the State Board hearing. Apparently at the intervention of the attorney for Spring Valley Associates, Weidman decided not to dock Schmidt's pay.

Prior to this time, at Spring Valley Gardens, Elisha T. Carr, an employee of Spring Valley Associates who was assigned to assist Superintendent George Schmidt signed a card for the Union and turned it over to Schmidt's wife. There-

^{8/} In the absence of any explanation therefor, I would find the conduct attributed to Childers by Weidman unusual for an experienced union representative in the circumstances. Further, as discussed hereinafter, I am convinced that Hopkins was in fact residing at the Sleepy Hollow Apartments at the time, and have no reason to believe that Childers was informed otherwise.

after, according to Carr, David Bleiberg, then a supervisory agent of Spring Valley Associates, came to Carr, and asked, "Did you join the Union?" When Carr denied this, Bleiberg stated that he had heard that Carr had joined the Union. Carr replied that he had signed a card for the Union. Bleiberg said, "Oh," and walked away. Within 3 weeks, Carr and another employees were laid off. (General Counsel refused to issue a complaint on the Union's charge that Carr's layoff was in violation of the Act.) Bleiberg denied Carr's testimony. I credit Carr.^{9/}

According to Hopkins, about 3 or 4 days after he "joined the union," he saw Weidman near Hopkins' workshop, at which time Weidman said, "I see you joined the GD (G-d damn) union," to which Hopkins assented. Hopkins says that Weidman replied that Hopkins would not be "around here very long." When Hopkins stated that the Union said Weidman could not fire him, Weidman then said, in Hopkins' words, "Well, we will find some way to get rid of you." This is denied by Weidman. I have very carefully considered this conflict in light of the demeanor of the witnesses and the record as a whole. In particular, it is noted that the remarks attributed to Weidman here are consistent with the animus exhibited by Weidman against Schmidt at the

^{9/} On the record as a whole I am convinced that Respondent's have a strong antipathy to the Union. Bleiberg's conduct is consistent with the pattern of employer action found herein. Carr apparently appeared at the hearing under the compulsion of a subpoena. His testimony did not apparently serve any self interest. His testimony evidenced no indication of bias or distortion.

State Labor Board hearing and with remarks made by Weidman to Serur, a job applicant, as considered hereinafter. On the basis of this consideration, I credit Hopkins as to this conversation.

d. Events leading to the discharge
of Hopkins

1. Complaints about Hopkins

Respondent Amshu contends that it had decided to discharge Hopkins long before he signed up with the Union because of complaints about Hopkins from tenants directly and through the office of the local building inspector, and because Hopkins and his wife were not living at the apartment and thus not readily available to handle complaints. Weidman and Halpern assert that on a number of occasions they were compelled to call Hopkins at his home in Yonkers to respond to emergency calls. Hopkins states that this occurred on 2 or 3 occasions, but only when he was at Yonkers on his day off.^{10/} According to Weidman, "the final decision to discharge Hopkins was made in May (emphasis added) when Mr. Long, the building inspector of Spring Valley, complained to me personally, that this thing is getting out of hand; the tenants are complaining to the building department that there was no coverage . . . I told Hopkins that this could not go on any more like this, that he has to reside there, he has to live there; we cannot stand the complaints of having the

^{10/} I have particularly noted that the record shows that it was Hopkins who gave Respondent the telephone number at his Yonkers home, indicating that he told Respondent that he would be visiting there. This tends to support the contention that the visits were on Hopkins' day off.

building department on our back." (This was denied by Hopkins, who asserted that he had no indication that his work was unsatisfactory until he was advised of his termination, and, in fact, had been complimented on his work by Halpern, who was his immediate supervisor. Hopkins, indeed, had received a wage raise in May.) Weidman stated that the complaints from the building department were the last straw that "broke the camel's back." However, evidence of specific incidents in support of these general assertions are sparse. Weidman states he has a specific recollection of a call from the building inspector in May stating complaints from tenants, but recalls no details. He has some vague recollection of the possibility of another call. Halpern recalled several calls from the building inspector relaying complaints from tenants, the last such call occurring in April. The contents of these calls were not stated, although Halpern indicated that in the winter months there were problems with the boilers in the apartments concerning which he had to call Hopkins at Yonkers. It appears that on these occasions, which Hopkins states occurred only on his days off, Hopkins immediately returned to the apartments to deal with the emergency. Weidman states that he received no calls from tenants directly, but that he was advised by Halpern that the latter received calls at night from tenants complaining about coverage by Hopkins. Halpern referred specifically only to one tenant who called complaining that screens had not been put in his apartment.

A number of tenants were called as witnesses by Amshu and by the General Counsel. From their testimony it would appear that they had a number of problems with the apartments.

A frequent complaint concerned the operation of the boilers and the availability of heat and hot water during the winter months. There is evidence that Hopkins took care of a number of these complaints, and, in fact, was available to restart the boiler on several occasions in the evening and during the middle of the night. There is evidence that there were occasions when tenants were unable to reach Hopkins to take care of problems, but no showing that these occurred on days when Hopkins was supposed to be on duty. Two tenants testified that they had complained to the building department. One tenant testified on direct examination that "after a couple of times when we could not get in touch with the superintendent, I sent a letter out to the building department of Spring Valley complaining about this." On cross-examination, after detailing his many complaints about not having screens in his apartment (Hopkins had advised that they were coming in and the tenant says he couldn't blame him), the tenant states that he then "finally got in touch with the building department, because it was warm in April, and we had no screens" The second tenant complained to the building department concerning an emergency incident which apparently occurred on Hopkins' day off.^{11/} There is no other evidence of complaints to the building department. The building inspector was not called as a witness, and no explanation was offered as to his unavailability.

^{11/} The tenant couldn't recall if the incident occurred on June 16 (Sunday) or on June 17 (Monday). Hopkins recalled being off on that Sunday.

2. Attempt to hire a new
superintendent

In March, Amshu placed an advertisement in a local newspaper in Nyack, the Journal-News, for "Superintendent-Resident Garden Apartments". No address was given. The telephone number listed was that of the Amshu office in its condominium. The ad apparently ran for about one week. Neither Weidman nor Halpern were very clear concerning the responses received to this ad. Halpern and Weidman assert that this ad was intended to secure a replacement for Hopkins, thus showing an intent to terminate Hopkins before his union activities began.

Halpern interviewed Abraham Serur, together with his wife Lea, for a position as superintendent either in response to this ad, or because Serur had learned of the position through others. Halpern states that this was for the position then occupied by Hopkins, because Amshu was concerned that Mrs. Hopkins was not going to move into the apartment. Halpern says that the Serurs were called back for another interview. This was in early June. At that time they met with Weidman. According to the credited testimony of Lea Serur, Weidman told the Serurs that the job was not then open, but that he would call them when it became open, that Amshu was having trouble with "the old super, " "t/hat the super took them to court, because he's in the union. " Weidman took the Serurs to see the Sleepy Hollow apartment complex and the hi-rise condominium located nearby. It does not seem that either Halpern or Weidman told the Serurs the name of the apartment group for which Amshu

was seeking a superintendent. Halpern advised them that it was in Spring Valley. The Serurs told Weidman that they could not be available to take a position until they returned from Canada in the early part of July. Upon their return from Canada, the Serurs spoke with Weidman by phone. At that time he advised that the position was not yet open "because they are fighting with the old super." The Serurs have not been contacted by Weidman since that time.

Weidman testified that he interviewed a Mr. Weisman for the position of superintendent; "I think I interviewed him the early part of June; I would say the second week of June, two or three weeks -- June 10, I believe it was." Weidman states that Weisman said that he could not be available before the end of June, and actually started to work on July. Hopkins was told that Weisman was to be his helper.

By letter dated July 8, signed by William Leflein for Amshu, Hopkins was advised:

Prior to the time you were employed in September 1973, you were informed that your position would be one of resident superintendent. You were given, at considerable cost to us, apartment No. 20 Luney Court, and you told us, prior to being employed, that you would, in fact, move in with your family upon commencing work.

Since that time, we have continually demanded that the move into the apartment be made because your availability at the building is imperative for its efficient and safe operation.

It having become apparent that you have no intention of residing at the building, it has been necessary to replace you with a new superintendent who will reside on the premises.

You will be relieved effective July 22, 1974.

In accordance with this letter, Hopkins did leave the premises by July 22. Within a week thereafter, Hopkins' son Robert, together with Alexander Rizzo, a business partner of Robert Hopkins, moved Hopkins' bedroom furniture from the apartment to Hopkins' house in Yonkers. It appears that the rest of Hopkins' effects remained in the apartment at the time of the hearing in this matter.

While the above summary statement sets forth only the essential facts of the case, without expounding in detail the testimony of the 22 different witnesses who testified (some of them more than once), the testimony of each of them has been carefully considered, including the conflicts among the witnesses and the conflicts in the testimony of individual witnesses. To the extent that the testimony of any witness is inconsistent with the findings made in the following Analysis and Conclusions, that testimony has not been credited.

IV. Analysis and Conclusions

I credit the testimony of Mr. and Mrs. Thomas Hopkins that they moved into the Sleepy Hollow apartments shortly after Hopkins was employed as resident superintendent there and made that place their residence until Hopkins was discharged. I find this conclusion to be supported by the credible testimony of Alexander Rizzo, the business partner of the Hopkins' son Robert. I was particularly impressed with Rizzo's testimony

that he picked up Mrs. Hopkins in the morning at the Sleepy Hollow apartments several times a week during the material period to take her to the business run by Rizzo and Robert Hopkins, where Mrs. Hopkins worked on a fairly regular basis, and that Rizzo left Mrs. Hopkins off at the apartments in the evening of the days that she worked at her son's business.

Hopkins seems to have had a long career as a resident superintendent in the New York area and is an experienced and apparently stable person. It is difficult to believe that a man who has made this field a lifetime work would at this stage of his career take a position clearly requiring his presence at the apartments and then deliberately absent himself continually, in spite of repeated admonitions indicating that such conduct was jeopardizing his position, as Respondent Amshu claims. Nor am I able to ascertain any motivation that would have induced Hopkins and his wife to live in their house in Yonkers distant from Hopkins' work, when living quarters, without cost, were provided at the place of his employment, which quarters were convenient and necessary to his work.

The record as a whole convinces me that Respondent Amshu was concerned that Hopkins had a house in Yonkers only because Hopkins consistently went there on his days off, whereas, if Hopkins remained at his residence at Sleepy Hollow Gardens, he would have been available for emergencies occurring there on Hopkins' day off. Respondent provided no substitute for Hopkins on his days off, and I have no doubt that the major problems of lack of maintenance coverage about which Amshu now complains occurred on Hopkins' days off.

It may be that on some occasions Mr. and Mrs. Hopkins, or one of them, were not at home at their apartment in the evening. But Respondent does not claim that they were obligated to remain on the premises continuously. I did get the strong impression from the testimony, reinforced by my study of the record, that the complaints against Hopkins, largely unspecific, were exaggerated.

However, even if Respondent Amshu discharged Hopkins for not residing at Sleepy Hollow Gardens on his days off -- which might be considered an arbitrary action -- this nevertheless would not constitute a violation of the Act, if, in fact, this were the real reason for the discharge. I find that it was not.

Respondent Amshu, asserting that Hopkins' discharge was unrelated to his union activities occurring about June 24, relies strongly upon its advertisement in a local paper in March for a resident superintendent. Amshu asserts that this ad was placed pursuant to its decision to discharge Hopkins. One of those applicants interviewed in March and again in early June for the position, according to Amshu, was Abraham Serur. However, Mrs. Serur, who accompanied her husband to these interviews, credibly testified that she and her husband were told that Amshu was looking for a replacement for one of its superintendents who was giving it trouble because of the Union, and was taking it "to court" in such a matter. Considering that this interview apparently occurred before Hopkins signed with the Union, the position Amshu desired to fill was clearly one other than Hopkins'. ^{12/}

^{12/} The record shows union activity at Spring Valley Gardens prior to June 24. When this started is not revealed.

In addition, Amshu's contention that the decision to get rid of Hopkins was made in March, prior to the placing of the advertisement, is at variance with the testimony of Weidman, vice-president of Amshu, that the precipitating cause for that decision occurred in May, after an alleged complaint from the Building Department of Spring Valley about lack of maintenance coverage at the Sleepy Hollow Gardens apartments.

Weidman further contends that he interviewed and hired a replacement for Hopkins, Weisman, on June 10, prior to the time Hopkins signed with the Union, on June 24. But Weisman did not begin work until July 1, then as Hopkins' assistant, and Weisman's testimony as to the date he interviewed and hired Weisman did not express that certainty and definiteness that would inspire confidence in the accuracy of the date. No other support is offered for this date. Weisman, who apparently is still employed by Amshu, was not called to testify.

I am convinced on the basis of the above, and the record as a whole, that whatever difficulties Respondent Amshu considered it was having with Hopkins, it had been willing to tolerate them and had made no decision to discharge him until it learned that Hopkins had joined the Union, which I find was the straw that broke the camel's back. The reasons presently offered for his discharge I find are pretexts. This is supported by Hopkins' credible testimony that Weidman told him that as a result of Hopkins' joining the Union, he would not be around there very long, and that Weidman would find some way to get rid of Hopkins.

On the basis of the above, and the entire record, I find that Respondent Amshu, by discharging Thomas Hopkins, discriminated in the hire or tenure of an employee in violation of Section 8(a)(1) and (3) of the Act. It is further found that Respondent Amshu, by Weidman's interrogation of Hopkins concerning his union activities and by the threat to terminate Hopkins because of those activities, further violated Section 8(a)(1) of the Act.

It is further found that in the circumstances of this case, Respondent Spring Valley Associates violated Section 8(a)(1) of the Act by David Bleiberg's interrogation of Elisha Carr concerning his union activities.

Conclusions of Law

1. The Respondents are each an employer, and together constitute a single employer, each engaged in commerce within the meaning of Sections 2(6) and (7) of the Act.
2. The Union is a labor organization within the meaning of Section 2(5), of the Act.
3. By the discharge of Thomas Hopkins, Respondent Amshu discriminated in regard to the hire or tenure of employment of an employee discouraging membership in and activities on behalf of labor organizations, which unfair labor practices violate Sections 8(a)(1) and (3) of the Act.
4. Respondent Amshu, by interrogation of and threatening to terminate Thomas Hopkins because of his union activities, engaged in unfair labor practices which violated Section 8(a)(1) of the Act.

5. Respondent Spring Valley Associates, by interrogation of Elisha T. Carr concerning his union activities, engaged in an unfair labor practice in violation of Section 8(a)(1) of the Act.

6. The above unfair labor practices are practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

The Remedy

It having been found that Respondent Amshu has engaged in unfair labor practices in violation of Sections 8(a)(1) and (3) of the Act, it will be recommended that Respondent Amshu be ordered to cease and desist therefrom and take certain affirmative action designated to effectuate the policies of the Act.

It having been found that Respondent Amshu unlawfully discharged Thomas Hopkins, it will be recommended that Respondent Amshu offer him immediate and full reinstatement to his former job, or if such job no longer exists, to a substantially equivalent job, without prejudice to his seniority and other rights, privileges, or working conditions, and make him whole for any loss of earnings suffered by reason of such discrimination against him, from the date of his discharge to the date of Respondent Amshu's offer to reinstate him as aforesaid, less his net earnings during that period, in accordance with the Board's formula set forth in F. W. Woolworth Company, 90 NLRB 289, with interest thereon at the rate of 6 percent per annum, as set forth in Isis Plumbing & Heating Co., 138 NLRB 274.

The particular circumstances of this case make it questionable whether it would be appropriate to order Respondent Amshu to post notices to the employees, inasmuch as it does not appear that Respondent maintains a place of business regularly frequented by its employees. It will therefore be recommended that Respondent Amshu mail copies of the notice hereinafter provided to each of its employees engaged at any of its activities in Spring Valley, New York, and furnish proof of such mailings, with the names and addresses of the persons to whom the notices were mailed, and the dates of the mailings, to the Regional Director for Region 2 of the Board within 5 days after the mailings hereinafter provided.

Although it has been found that Respondent Spring Valley Associates engaged in a single instance of unlawful interrogation of an employee, I do not believe that it is necessary to effectuate the purposes of the Act that a remedial order be issued against that Respondent in the circumstances. Notwithstanding the close connection between Respondent Amshu and Respondent Spring Valley Associates, there appears to have been a minimum amount of contact between employees of their separate operations in Spring Valley. The supervisor who engaged in the single incident of interrogation apparently no longer works for Respondent Spring Valley Associates. The employee interrogated was not unlawfully terminated, so far as this record shows, nor does the record show that any other employee of that Respondent has been interfered with in the exercise of his rights under the Act. I recommend that no remedial order be issued against Respondent Spring Valley Associates.

Upon the foregoing findings of fact, conclusions of law, and the entire record, I issue the following recommended:^{13/}

ORDER

Amshu Associates, Inc., Respondent herein, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discharging, or otherwise discriminating against employees in order to discourage membership in or support of Building Service Employees International Union, Local 32E, AFL-CIO, or any other labor organization.

(b) Threatening employees with discharge, or other reprisals for joining a union or engaging in union activities or supporting a union.

(c) Coercively interrogating employees concerning employee membership in or activities on behalf of unions.

(d) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights under Section 7 of the Act.

2. Take the following affirmative action which it is found will effectuate the policies of the Act:

^{13/} In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

(a) Offer Thomas Hopkins immediate and full reinstatement to his former job, or if that job no longer exists, to a substantially equivalent job, and make him whole for any loss of earnings he may have suffered by reason of the discrimination against him, in accordance with the provisions of the section entitled "The Remedy" above.

(b) Preserve and make available to the Board, or its agent, upon request, payroll and other records to facilitate the effectuation of the Order herein.

(c) Mail to each of its employees engaged at any of Respondent's activities in Spring Valley, New York, a copy of the attached Notice marked "Appendix." ^{14/} Copies of such Notice, on forms provided by the regional Director for Region 2, after being duly signed by an authorized representative of Respondent shall be mailed to the persons above-stated immediately upon receipt thereof, and again on the 60th day thereafter. Proof of such mailings, with the names and addresses of the persons to whom the Notices were mailed, and the date of such mailings, shall be furnished to the Regional Director for Region 2, within 5 days after such Notices are mailed.

^{14/} In the event that the Board's Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "ISSUED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall be changed to read "ISSUED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

(d) Notify the Regional Director for Region 2, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

Dated at Washington, D. C.

/s/ Sidney J. Barban
Administrative Law Judge

NOTICE TO
EMPLOYEES

ISSUED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

THE LAW STATES THAT EMPLOYEES SHALL HAVE THE RIGHT

to form, join, or assist labor organizations,
to bargain collectively through representatives of their
own choosing,
to engage in other concerted activities for the purpose of
collective bargaining or other mutual aid or protection,
and to refrain from any or all such activities, except
as may be required, by a legal agreement, between
an employer and the representative of the employees.

WE WILL NOT discharge or discriminate against our employees
because they join or help BUILDING SERVICE EMPLOYEES
INTERNATIONAL UNION LOCAL 32E, AFL-CIO, or any other
labor organizations.

WE WILL NOT threaten to discharge or otherwise harm our
WE WILL NOT coercively question employees concerning membership
in, or activities on behalf of a union.

WE WILL NOT in any other manner interfere with, restrain or coerce employees in the exercise of the rights protected by law.

WE WILL offer Thomas Hopkins immediate and full reinstatement to his former job, or, if that job no longer exists, to a substantially equivalent job, without prejudice to his seniority or other rights, privileges, or working conditions, and

WE WILL make Thomas Hopkins whole for any loss of pay or benefits suffered as a result of the discrimination against him.

AMSHU ASSOCIATES, INC.
(Employer)

Dated _____ By _____
(Representative) (Title)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE
THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 36th Floor, Federal Building, 23 Federal Plaza, New York, N. Y. 10007. Telephone (212) 264-0306.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE NATIONAL LABOR RELATIONS BOARD

Second Region

-----X
In the Matter of:

AMSHU ASSOCIATES, INC.

and

BUILDING SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 32 E, AFL-CIO
-----X

:
:
:
: Case Nos. 2-CA-13401
2-CA-13422
:
:
:

26 Federal Plaza,
New York, New York
Monday, November 18, 1974

The above-entitled matter came on for hearing, pursuant
to notice, at 11:55 a. m.

BEFORE:

HON. SIDNEY J. BARBAN, Administrative Law Judge.

APPEARANCES:

HAYWOOD E. BANKS, ESQ.

26 Federal Plaza, New York,
New York, appearing as
counsel for the General Counsel.

RAYMOND G. KRUSE, ESQ.

38 Park Row, New York, New
York 10038, appearing on behalf
of the Respondent.

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MR. KRUSE: In reference to this case today, there was a complaint served with the title Amshu Associates, Inc., naming two cases and consolidating both these cases together.

The complaint as it is worded cites throughout "the company" and I take the words "the company" to refer to the title of the action, which is Amshu Associates, Inc.

In submitting my answer I denied all the material allegations as to the complaint with the exception of the jurisdiction and I did concede that the NLRB had jurisdiction over Amshu Associates, Inc.

While the complaint is worded in paragraphs 8, 9, 10 and 11 using the phrase "its employee," and finally in paragraph 11 naming its employee Thomas Hopkins, it thereby seems to imply that a single employee, namely, Thomas Hopkins, was the individual being named in the various paragraphs above.

6

From prior papers I had received from the NLRB, I discern that in fact it is talking about two separate employees, Elijah Carr, and paragraphs 9, 10 and 11 in reference to Thomas Hopkins.

Counsel for the NLRB has clarified this and tells me that it is in fact true that these do represent the respective employees just mentioned.

It is our position that Amshu Associates, Inc. is not the owner and not the proper party in reference to the employer of Mr. Elijah Carr.

The employer of Mr. Carr at that time referred to by the complaint was Spring Valley Gardens Associates. Spring Valley Gardens --

JUDGE BARBAN: Mr. Kruse, let me see if I can get this from you in a way that I would like; if you don't mind.

MR. KRUSE: Not at all.

JUDGE BARBAN: Amshu Associates, Inc. is a corporation, I assume?

MR. KRUSE: That's correct.

JUDGE BARBAN: In paragraph 2 it is alleged that the company is and has been a corporation.

Would you look at paragraph 2 which says the company is and has been at all times material herein a corporation duly organized under and existing by virtue of the law of the State of New York.

7 Is that true as to Amshu?

MR. KRUSE: That is true.

JUDGE BARBAN: Would you describe for me what the legal character is of Spring Valley Gardens Associates, a partnership or something of that sort?

MR. KRUSE: Spring Valley Gardens is in fact a partnership and it has, if you would care for the names, the following partners:

Sam Halpern, Arie Halpern, Harry Wilf, Joseph Wilf, Jacob Burstyn, Myer Gold, Mark Widerman, Leonard Wilf and Fred Halpern.

They have their main office at 272-A1 Oak Street in Newbridge, New Jersey and an office or doing business at 105 Sneden Place West.

The problem was that there was an address change in Spring Valley itself which is the reason of uncertainty. They had a main address.

JUDGE BARBAN: This Sneden Place West is located where?

MR. KRUSE: Spring Valley, New York and that's the location of the Spring Valley Gardens Apartments.

JUDGE BARBAN: If you will take the complaint, with respect to the paragraph 1-A, was that charge received by Amshu as alleged?

MR. KRUSE: That is correct.

8

JUDGE BARBAN: With respect to 1-B, was that charge received by Amshu as alleged?

MR. KRUSE: That's correct.

If I may, we, nonetheless, in behalf of Spring Valley Associates, would accept delivery of that so there is no question about that aspect.

JUDGE BARBAN: You are for the purpose of this hearing at this point agreeing that the receipt of the charges by Amshu can be considered as receipt of the charges by Spring Valley?

MR. KRUSE: They were, in fact, given over to and considered by the partners known as Spring Valley Associates and to that extent we accept delivery of them and admit delivery of them.

JUDGE BARBAN: Paragraph No. 2 is admitted.

With respect to paragraph No. 3-A, insofar as the paragraph applies to Amshu, is it correct?

MR. KRUSE: That is correct.

JUDGE BARBAN: With respect to 3-B, what is your contention as to the company or entity which is the owner or responsible for Spring Valley Garden Apartments?

MR. KRUSE: Spring Valley Garden Apartments has earned --

JUDGE BARBAN: First thing, is that Amshu or Spring Valley Gardens Associates?

9

MR. KRUSE: Spring Valley Gardens Associates.

JUDGE BARBAN: With respect to the other allegation you were going to say --

MR. KRUSE: The company referred to or the correct company for ownership of Spring Valley Gardens Apartments would be Spring Valley Gardens Associates. The Spring Valley Gardens Apartments which is their property does over a half million dollars a year in business in rentals.

JUDGE BARBAN: If this allegation had alleged Spring Valley Gardens Associates as the company, this allegation would be correct?

MR. KRUSE: That is correct.

JUDGE BARBAN: With respect to 3-C, is that correct?

MR. KRUSE: That is correct.

JUDGE BARBAN: With respect to 3-D, assuming that the word company refers to Spring Valley Gardens Associates, is it correct?

MR. KRUSE: Yes.

JUDGE BARBAN: Am I to understand that you would admit for both Amshu and for Spring Valley Gardens Associates that each of them is and has been at times material an employer engaged in commerce within the meaning of the Act?

MR. KRUSE: Yes.

JUDGE BARBAN: That would be admitted for both of those companies?

10

MR. KRUSE: Yes.

JUDGE BARBAN: Would you tell me what the position of both companies is with respect to 5 in your complaint?

MR. KRUSE: We would admit that Local 32 E is for either company and I am sure for numerable others.

JUDGE BARBAN: You are admitting it is a labor organization?

MR. KRUSE: Yes.

JUDGE BARBAN: With respect to Mr. Blieberg, which company is he concerned with?

MR. KRUSE: He is concerned with Spring Valley Gardens Associates.

JUDGE BARBAN: Would you agree that he is a supervisor and agent of Spring Valley Gardens?

MR. KRUSE: Yes.

JUDGE BARBAN: The same questions with respect to Mr. Widerman.

Off the record you told me he was a vice president of Amshu and an agent of both of them. Is that correct?

MR. KRUSE: That's correct.

* * * * *

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JUDGE BARBAN: Let us stop there.

We were told off the record that one of the employees involved in the interrogation was a Mr. Carr. It is your contention Mr. Carr was employed by Spring Valley Gardens Associates, is that correct?

MR. KRUSE: That's correct.

JUDGE BARBAN: You also stated to me off the record it is agreed Mr. Thomas Hopkins was employed by Amshu.

MR. KRUSE: That's correct.

JUDGE BARBAN: With respect to 11, I think you told me off the record you admit Amshu discharged Mr. Hopkins on or about July 22nd.

MR. KRUSE: I'm sorry, yes, we admit that charge.

JUDGE BARBAN: 11 would be admitted?

MR. KRUSE: Yes. It was on or about. I'm not sure of the exact date. It was in the area of July 22nd.

JUDGE BARBAN: I would assume without taking up too much more time that you would deny the remaining paragraphs of the complaint?

MR. KRUSE: We don't deny 12. We have in fact refused to reinstate him, no question about that.

JUDGE BARBAN: 12 is admitted.

* * * * *

12 JUDGE BARBAN: To follow this up, Mr. Kruse, in ...

* * * * *

14 MR. BANKS: Yes, it isn't clear in my mind now the positions of the two principals that are named. Mr. David Blieberg, he is a partner?

MR. KRUSE: No, Widerman is the partner.

MR. BANKS: What position does Blieberg hold?

MR. KRUSE: He is an employee in a supervisory position.

MR. BANKS: Mr. Widerman is a partner in Spring Valley Associates and vice president of Amshu?

MR. KRUSE: That's correct.

* * * * *

16

THOMAS HOPKINS

called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

* * * * *

Q. (By Mr. Banks) What is your occupation? A. I'm a building superintendent, apartment house.

Q. Would you explain briefly what is a building superintendent? A. A building superintendent is one who takes care of the boilers and laundry rooms and repairs of the tenants.

17

Q. What kind of building have you normally been superintendent of? A. Normally -- I have been in both apartment house and superintendent in the Bronx and Garden-type apartments.

Q. Were you ever employed by the respondent, Amshu Associates, Inc.? A. Yes, I was employed by Amshu to take care of their Sleepy Hollow Garden Apartments for September 1973 to July of 1974. An 11-month period.

Q. How did you obtain that employment, Mr. Hopkins? A. Well, it was an ad put in the paper and a friend of mine told me this job was open and I applied to Mr. Dave Halpern, who was hiring the help at Sleepy Hollow.

Q. Approximately when was it you made the application for the apartment? A. September 1 of 1973.

Q. At that time that Mr. Halpern discussed employment with you, did you discuss the employment arrangement? A. Yes, he told me, my wife was with me and told me I would be a resident

superintendent, which meant I'd get an apartment and told me my salary and my duties.

18 Q. Will you explain briefly what your duties were as superintendent at Sleepy Hollow? A. Well, my duties were to check my boilers, boiler rooms, check my laundry rooms, make sure the place was clean. Then during the day take care of the complaints of the tenants in their apartments and in the evening lock up the laundry rooms and the boiler rooms and check to see if my lights -- if any bulbs were out.

Q. You say you discussed the terms of employment. What was your salary? A. My starting salary was \$110.

Q. Is that per week? A. Yes.

Q. You said you were a resident superintendent which meant you had an apartment, is that right? A. An apartment.

Q. How many rooms did this apartment have? A. Well, my apartment there had three rooms and a finished playroom in the basement. Two levels.

Q. Was this an apartment like those occupied by the tenants there? A. Identical.

Q. Do you know the approximate evaluation of that apartment? A. The apartment was \$290 a month, the rent.

Q. That together with your \$110 was your compensation for the position? A. Yes.

19 Q. Did you have any assistant there, Mr. Hopkins? A. No. For the first, I would say, eight months I had no assistance in my general work.

Q. I believe you said this was a garden apartment, that is right, garden-type apartment? A. Yes.

Q. Would you describe what a garden apartment is like, structurally? A. Well, it is usually -- in this case, ten buildings spread over a larger area and two stories high and not too many tenants in each one building. Say 12, 14 in the next, you would have an entranceway that was kind of private which would be for one family on the lower level and one family on the top.

Q. Would you say that then is to some extent something like a duplex apartment? In actuality that's what they were? A. Yes.

Q. Was there a common entrance where all the tenants entered? A. No.

Q. Like a common lobby? A. No.

Q. How many tenants were there at the time you became superintendent there? A. I came in when the buildings were being just finished. When I came in I think I came in with the first tenant, just about. There might have been three or four in.

20.

Q. Approximately how many tenants were there at the time that you left? A. I'd say presently a hundred.

Q. I think you have already described to us what your daily routine was with respect to what you did around there.

How many hours did your normal day include?

A. Well, I would say ten hours a day including my night patrol where I would lock up and check the bulbs. Ten hours a day.

Q. Approximately what time would you start? A. I'd start at half past 7:00 in the morning.

Q. You would end at about what time? A. About half past 4:00.

Q. In the performance of your duties, do you have tools and other equipment? A. Yes, lots. A lot of tools.

Q. Are the tools supplied by yourself or are the tools supplied? A. They were all my own tools. Over the 26 years I have been a super I have gathered a lot of tools.

Q. How many days a week did you work? A. Six.

Q. Six days? A. Yes.

21 Q. What six days were they? A. At the beginning they were from Monday, including Saturday. And then due to the fact we came into the winter months and the boilers broke down a few times, I was asked if I would mind working on Sunday and take Wednesday off. So I'd say half the time I worked from Monday including Saturday and the other time I had Wednesday off instead.

Q. Other than your regular stated tasks such as you indicated tending the boilers and so forth, from time to time did you get other assignments or other duties? A. From my boss?

Q. From anyone. A. Well, I would get calls from tenants at night. Emergencies, they would be the ones that would call me to tell me a boiler was out, a light bulb was out.

Outside of my normal repairs, in answer to your question, in a new building the air conditioners are not in, so there was a hundred air conditioners I had to install and all the screens.

So there were two specific jobs you wouldn't have later on.

Q. You had indicated tenants would call you sometimes at night in an emergency.

22

Did you get any other notices from tenants regarding either services or repairs that were needed? A. They would either call on the phone or leave their notes under my door, that they wanted this fixed. A lot of the complaints -- there is a renting girl when a new building is being put up and a lot of the complaints would go to her and she would relay them to me.

Q. Did there come a time when there was any discussion regarding coverage, any different coverage than you were giving the buildings as you have outlined? A. Yes, this was right before I joined the union.

Mr. Widerman stopped me in the evening and in fact being with me I said to him, "Is there any way we can get more coverage for the building?"

And we got to speaking back and forth on it. He wanted my opinion and I told him that we needed another man. In my opinion I just couldn't give any more than I was giving.

His answer was, "We don't have the money at this time to hire somebody else."

And that was what -- when I had made up my mind to join the union. I couldn't give any more hours or any more effort than I was giving.

Q. What if anything did you do as a result of that

23 conversation? A. Well, I went down to the union and I asked that I would like to sign the building up, have it be union. That was on June the 24th.

Q. June the 24th, 19 -- A. '74.

Q. What union do you mean? A. Building Service Employees 32 E.

Q. Who did you speak to at the union? A. I spoke to Howie Lungens.

Q. That was June the 24th, is that right? A. June the 24th.

* * * * *

Q. Did anything develop, as a result of your seeing the union? A. Well, to me the important thing that developed was three or four days later I met Mr. Widerman in his garage which is adjacent to my workshop and there is no partition in the three garages. It is straight through.

24 He called me over to him and says, "I see you joined the GD union."

* * * * *

JUDGE BARBAN: I will take that into consideration. But as of the present moment the witness is apparently giving us a conversation between Mr. Widerman and himself.

Can you tell me about what day this occurred?

THE WITNESS: This was, you Honor, three or four days after I joined the union. I joined the union on the 24th. I'd say on the 28th.

* * * * *

JUDGE BARBAN: That slipped by me. I will make that determination when the time comes. Right now I will take the conversation.

25

Go ahead, start from the beginning.

THE WITNESS: Well, about four days after I joined the union, I met Mr. Widerman in his garage which is right next to my work shop.

He called me over to him and said, "I see you joined the GD union."

I said, "That's right, Mark."

He says, "Well, you won't be around here very long."

I said, "Well, you can't fire me, the union told me you couldn't fire me."

He said, "Well, we will find some way to get rid of you."

And that was the end of the conversation.

Q. After that did you have any additional conversation with any member of the management? A. Yes, I did. Later on -- and this I don't know the exact date, it was just previous to when I was supposed to leave my apartment, which was July the 22nd, and Mr. Leflein, Mr. Bill Leflein, I met him in my work shop and he had his construction super who was the construction super on the job at Sleepy Hollow Gardens and his name was David Blieberg.

He brought him in and he said, "I'm not bringing him in as a bodyguard. I'm bringing him in as a witness."

He said, "Well, are you leaving on the 22nd?"

26

I said, "No, I'm not leaving on the 22nd." I said, "If the union tells me to go, I will go."

And he asked me, "Well, why would you want to stay where you are not wanted?"

And I told him I had worked very hard and put a lot of effort in the building.

He says something about, "If I was told to go by my boss, I'd go."

And I said, "Well, I have a union behind me."

He said, "Well, you are going to find out the unions are not running this country as yet."

And this was the end of that conversation.

David Blieberg, the construction super, was there at the time that this conversation took place.

Q. You indicated you had some prior knowledge you were supposed to leave on the 22nd before this conversation.

How did you come by that knowledge? A. Well, I received a registered letter on about, I'm not sure of the date, the 9th or the 12th of July in 1974 telling me that my salary would be terminated as of that date.

MR. BANKS: Would you mark this General Counsel Exhibit 2, please.

(Document above referred to
marked General Counsel
Exhibit 2 for identification.)

27

Q. (By Mr. Banks) I show you what has been marked General Counsel Exhibit 2 for identification which appears to be a letter addressed to you and ask you if you can identify that?

A. Yes, I recognize that, July the 22nd.

Q. Did you receive that letter?

MR. KRUSE: We will stipulate as to the sending of the letter. A. Yes, I received a copy.

Q. I guess you have read this letter several times, you know what the general import of that letter is, don't you?

A. Yes, yes.

Q. That is a letter of termination, is that right?

A. Yes.

Q. I ask you if in this letter the company indicates the reason for termination? A. They had told me verbally and in this they said I wasn't residing at my apartment which had been given me.

Q. You said they told you verbally.

At what time? A. They had told me about the letter.

Q. Approximately when was that? When did they tell you verbally about the letter? A. I'm not sure. I have to be honest, I'm not sure. In my mind, I had this, when I had the letter. It was after the letter. After I received the letter I either heard in a conversation they were letting me go, because I wasn't on the job or something to that effect. That's what I gather out of the letter.

Q. You began working there in September of 1973, is that right? A. That's right.

Q. This letter is dated July 8, 1974? A. That's right.

Q. At any time prior to July 8th did any officer or supervisor of the company question you about not staying in

your apartment on the premises? A. No, there wasn't. There wasn't a word to that. Not a word.

Q. Did any supervisor or officer or representative of the company indicate to you in any way that your work had not been satisfactory prior to July 8th? A. No, not in any way. They gave me two raises in that time period.

Q. Do you remember the amount of the raises and when they were given to you? A. I don't remember the date, but I do remember the amount. One was \$5 and one was \$10.

Q. So then at the time you were terminated you were making \$125 a week? A. That's right.

* * * * *

29

Q. (By Mr. Banks) After this conversation which was sometime in July after you received the letter with the persons you have named, did you continue to remain on the premises and perform your duties? A. Well, this is after my letter of termination?

Q. Yes. A. Well, I was given a little time to get out of my apartment. So the actual time I was supposed to be off the premises was the 22nd and I helped show the fellow that was running the place, the boilers and this and that at that time, although I wasn't on salary.

Q. At what time, if at all, did you vacate the premises? A. Well, about a week after July the 22nd.

30

What happened in there, if I am allowed to tell it, I went around to tenants trying to get letters from them to prove my point of view, my case.

And I was told by Mr. Widerman that if I was caught doing that he'd call the police department and have me taken off the premises.

And a day or two later I was pulling in with my car on to the premises, he told me he'd have me forcefully evicted if he caught me on the premises again.

Then my wife got a little shaky and thought there was going to be trouble and she didn't want to stay on the premises and I took my bedroom set and moved down to the house with my son, a house my son has.

That's where I am living now. I left the premises, about a week after the 22nd and took my bedroom set.

Q. You mentioned a house in Yonkers, is it? A. Yonkers.

Q. Did you stay in that house between September 1973 and July 22, 1974? A. Not at all. The only time I was down there was on my day off.

I bought the house with the intention of having that house to retire to. Because a super when he retires doesn't have any place to go to because he doesn't own the apartment he lives in. That was my intention, to live there after I retired.

31 Q. Who, if anyone, occupied the house while you were a super? A. My son, Robert Hopkins, who pays the bills. It's his furniture, he occupies the house.

Q. You indicated you had taken a bedroom suite out of the apartment.

Is there any furniture in that apartment that belongs to you? A. Yes, the rest of the apartment is fully furnished. The rest of the apartment, outside of the bedroom set.

Q. Have there been any subsequent attempts by the company or any representative of the company to have your things or your personal effects removed from the premises?

A. No, no, outside at the beginning when I told him I wasn't going to leave, they told me they would padlock the apartment and lock me in there if I was in there. But they didn't do it.

Q. When was the next or last time you were in the apartment? A. I'd say a week ago.

Q. A week ago you found your effects still there?
A. Yes.

Q. At the time you moved in in September, did your wife move in with you? A. A week after.

32 Q. A week after? A. Yes. My wife has been with me the 26 years I have been a super, every day and I won't at this stage of the game be without her.

I don't think I or any other super could run a new building without his wife there.

* * * * *

33

CROSS-EXAMINATION

Q. (By Mr. Kruse) Mr. Hopkins, you said you moved into your apartment on what date? A. Well, approximately September 7th or something like that. Either five or seven days after I was hired, if I'm correct in saying I was hired September 1st.

Q. About five or seven days? A. A week after I was hired.

34

Q. When was the first furniture that you moved into the apartment? A. A week after I was hired.

Q. Could you tell us what furniture that was? A. Well, I had my bedroom set, dining room, table and chairs, a living room couch, a television.

Q. If you would slowly -- you moved in your bedroom set? A. Yes.

Q. Your dining room? A. Table and chairs, little knick-knacks that the wife has there.

Q. Bedroom set, dining room, what else? A. Living room couch, chairs, television, pictures, drapes.

That's about all in the living room. Our dishes for the kitchen and all the little -- toaster, mixer, all the accessories that go with a kitchen.

My wife would know better.

Q. What did you use to move your gear in? A. My son has a truck and he helped with some of it. Then we had a friend who also had a truck and the first part of it we got with him.

Q. What you are saying is you used two separate trucks to move this gear in? A. That's right.

35

Q. Did you use both the trucks in the same day?
A. No.

Q. Which truck did you use first? A. A friend's.

Q. The friend's truck first? A. That's right.

Q. What did you bring over in the friend's truck?

A. Well, the bedroom set was the first part, as far as I can remember.

Mostly my wife's department. She'd know better than I on furniture and setting up the room.

Q. As much as you lived there I imagine you know as well as she does? A. What was in there finally. My son and my wife took care of that. I was busy taking care of my duties.

Q. Did you live in the apartment at all? A. Yes, all the time.

Q. You are contending you lived in there every night over a period of nine months? A. Not every night.

Q. A majority of the week? A. A majority of the week.

Q. You had ample opportunity to see what kind of furniture you had in the house? A. I said that, but I said in compiling the furniture, getting it in there, laying it out, that's my wife.

Q. In other words, she laid the house out but you yourself know what was in there? A. That's right.

Q. After she laid that out you certainly know where it was? A. That's right.

Q. The friend's truck was used to bring the bedroom set? A. I think. As far as I can remember. I wouldn't be sure on that. As I said, I didn't take care of the moving part of it.

* * * * *

Q. (By Mr. Kruse) How long after the bedroom set arrived did the rest of the gear arrive? Did you bring over all the rest of the gear in the next truck or was it several truckloads; to your knowledge?

* * * * *

JUDGE BARBAN: Do you remember, Mr. Hopkins, when the second truckload of furniture came and what it was?

THE WITNESS: I don't remember. Am I answering to you, your Honor, or him?

JUDGE BARBAN: You are answering to the reporter.
You don't remember, you say?

THE WITNESS: Not exactly that the day, because we moved not with a professional moving van and we moved hodge-podge.

JUDGE BARBAN: Mr. Kruse, continue.

Q. (By Mr. Kruse) You say you don't remember exactly when the next load arrived? A. Yes.

Q. What is your best recollection of the first that that did arrive? Was it more than ten days or less than ten days? A. I'd say less than ten days.

Q. Was it more than five days or less than five days?

39

JUDGE BARBAN: Mr. Kruse, are we talking about the second load?

MR. KRUSE: Second load, yes.

* * * * *

Q. (By Mr. Kruse) I had asked you when the second load of furniture, to your best recollection, arrived.

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Was it more than five days or less than five days? A. Excuse me, your Honor, I know you are not supposed to badger a witness, but even at my age I don't want to be called a liar.

* * * * *

JUDGE BARBAN: Do you remember when?

THE WITNESS: I would say it was approximately seven days after I was hired. Seven days after the 1st.

JUDGE BARBAN: Proceed.

Q. (By Mr. Kruse) To the best of your recollection, what came in that load of furniture? A. I really don't know.

Q. What was the next thing you saw in your apartment after the bedroom set? A. The kitchen accessories. Dishes and that, to the best of my recollection. Plates and dishes and what-not.

Q. You said there were, in the house, one bedroom?
A. That's right.

41 Q. A playroom? A. Not a playroom.

Q. What would you call it? A. We had a playroom, but I wasn't using the playroom. I had no furniture in the playroom.

Q. There was a living room? A. Living room.

Q. A kitchen? A. Kitchen.

Q. Was there a dining room? A. Dining room.

Q. Let me ask you this.

Was the apartment that you had gotten a minimum number of rooms in an amount of the apartments that were at Spring Valley Gardens? A. No. There were smaller. Now, going back now, there were smaller apartments where there was no playroom.

Q. You put your bedroom accessories in the bedroom?
A. Yes.

Q. You then put your kitchen gear in the kitchen?
A. Right.

Q. When were the next articles that arrived to the best of your recollection, after the kitchen accessories and the bedroom?

42 A. Well, all -- everything was in there, to answer the question, within the two-week period. Everything that's in there now was in there in the two-week period.

Q. You said that you moved out the bedroom set a short while after you finished your employment on the 22nd of July? A. After the 22nd.

Q. That was within a week after the 22nd? A. A week after.

Q. Do you recollect having a hearing to receive unemployment? A. Yes.

Q. Did you testify at that hearing concerning your unemployment? A. Yes.

Q. Did you testify at that hearing concerning the presence of your furniture in the apartment? A. Yes, yes.

Q. When, approximately, to the best of your recollection was that hearing? A. I don't remember the date. I remember the hearing.

Q. Was it in September? A. I have the papers home.

Q. Was it in September? A. In September, it could have been in September.

Q. You are not really sure though? A. I'm not sure. I have the decision home, I didn't think I'd need that.

Q. Did you testify at that hearing with reference to the presence of your bedroom set? A. To my knowledge, I was asked was there any furniture in the apartment. I said my furniture is there.

Q. Did you make any reference at that time, specifically, to your bedroom being moved out? A. That I don't know without my statement. I don't remember whether that question was asked or anything.

Q. You did tell them, in fact, your furniture was still in the apartment? A. That I had furniture in the apartment.

Q. There is no doubt then in your mind your bedroom set was out of the apartment prior to that hearing? A. To the best of my knowledge.

Q. Are you certain? A. As I said, to the best of my knowledge I took the bedroom set out at that time.

Q. You are not really certain though? A. I would say I'm certain.

Q. Positive? A. Yes, not positive.

Q. Okay, you are not positive.

What did your bedroom set consist of?

44 A. A bed and two small night tables and a mirror and that's about it. A chair, there is two chairs, two chairs.

Q. What were the chairs like? A. They are like -- not full, like this type of chair, but with leather on here.

Q. You moved in your kitchen accessories.

What did the kitchen accessories consist of?

A. A toaster and a blender, knives and forks and the dishes, cups.

Q. Did you have a kitchen table? A. No.

Q. Did you have one at the house in Yonkers?

A. A kitchen table, I don't know. My son, I presume he had one.

* * * * *

45 Q. (By Mr. Kruse) Did you have any chairs in the kitchen? A. No.

Q. Was there any other furniture in the kitchen you can recollect? A. No, no furniture in the kitchen.

Q. Did you have anything in the kitchen in the form of furniture, either formal furniture or make-shift? A. No furniture in the kitchen. Just accessories.

Q. The dining room, what did you have in the dining room? A. The dining room I had a dining room table, chairs and the dining room adjoins the living room, so the television set was halfway in between both on a table. There was a small table for the television, large table for eating and chairs.

* * * * *

46 Q. How big was the dining roomtable? A. The size of it, I would say it is about 30 inches in diameter. It was a round table.

Q. Was it a tension table or not? A. No, round table.

Q. What were the type of chairs you had in the dining room? A. They were on the type of bridge chairs.

Q. Were they folding chairs? A. Yes.

Q. How many did you have? A. Four.

Q. Was there any other furniture in the dining room other than the dining room table, the four folding chairs and the small table that contained the TV that was shared with the living room? A. No.

Q. The living, room, what did that consist of?
A. It had a couch, and -- I've gone over this. A couch, the television which was halfway, pictures, there was a desk in

47 there, large desk I use for my office work too. And a table, two small tables, two small tables.

Q. Will you describe the table to me, the two small tables? A. Like a little end table. Like a dresser table.

Q. Do you recollect testifying at the unemployment hearing that you, in fact, at the unemployment hearing, that you had five full rooms of furniture in your apartment? A. No, not five full rooms.

Q. In other words, if that testimony appears in the testimony at a hearing at an employment hearing, it would not be correct, is that so? A. Not to my -- no, I didn't have five rooms. I don't know where that could come from. If you start with a certain number of rooms, you can't add to it.

Q. You did testify you had a bedroom? A. Playroom, living room, kitchen and dining room.

Q. No furniture in the kitchen. There were five rooms? A. How did you get five rooms?

Q. Bedroom, playroom -- A. Playroom I said I didn't have anything in it.

Q. It was a room? A. I didn't have anything in it.

Q. You had five rooms? A. I had five rooms, but they weren't full of furniture.

48 Q. You had the couch, the desk, two end tables and pictures in the living room? A. I think there is four pictures in the living room. Two pictures like flowers and two pictures of Spanish something and my desk.

I think that's all the pictures.

Q. You testified that your prior experience prior to coming to work for Amshu was previously in the Bronx. A. And Westchester.

Q. Which did you work in first? Was it the Bronx or Westchester? A. Bronx.

Q. Where did you work?

* * * * *

Q. In Westchester, where did you work? A. I work for Gateway apartments, North Broadway. I was in there three years.

49

Q. You owned the house in Yonkers at the time you began working for Amshu? A. That's right.

Q. Do you still presently own that house? A. I own it, my son lives in it. That's my retirement house, yes.

Q. Does he occupy or did he occupy the entire house during the period that you were employed by Amshu? A. Did he occupy the house during the period I was -- yes.

Q. How many rooms does the house in Yonkers consist of? A. Well, there is two bedrooms, a living room, dining room and a kitchen. Five rooms.

Q. You had testified you went to see the union at some point in time after a conversation with Mr. Widerman. A. Yes.

Q. What is your best recollection as to when you went to see the union? A. It was June the 24th.

* * * * *

Q. Had you ever had any prior contact with the union at all? A. I have been a member of 32 E for over 20 years.

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Q. Do you usually pay your dues by mail or do you go down to the union hall? A. I don't pay any dues.

51

Q. You don't pay any dues? A. No, I'm now in a withdrawal status.

Q. Prior to this when was the last contact you had with the union in any form, either orally with some individual representative of the union, or by mail? A. Oh, three years, I guess. Three or four years. Three years, I'd say.

Q. At the time that you went down to see the union, were you asked to pay any dues at that time? A. No.

Q. Was there any form of documentation they gave you in reference to the date of June the 24th? A. That I don't remember. Whether I had documentation. I had to fill out -- my delegate gave me a form to fill out. I don't think I received any documentation as to that, myself, personally.

Q. When did you receive the notice by mail, to the best of your recollection, in reference to your being discharged? A. I think and I'm confused, you will have to go along with me on this. This was either the 8th or 12th of July.

Q. The 24th of June is a Monday. The 8th of July is a Monday which is exactly two weeks later and the 12th is a Friday.

52

You are saying you went to the union approximately two weeks before you received the notice in the mail? A. I went to the union on the 24th and I received my dismissal, I think it was, on the 8th or the 12th.

Q. It was approximately two weeks later? A. I would say yes.

Q. Could it have been more? A. As far as my actual termination, there is a double point here. My termination to leave the apartment, to terminate my doing that, was the 22nd of July. But my salary stopped at an earlier point, my employment.

Q. I was to zero in on this date of the 24th.

Is it a date you simply pick as being approximate or is it a date you have some reason to know it was the 24th you went to see the union?

MR. BANKS: Your Honor, please. The question has been asked and answered.

JUDGE BARBAN: Overruled.

A. Yes, I'm fairly certain it was the 24th, the date I went to the union. Fairly certain of that.

Q. Could it have been the 18th? A. No, no. It couldn't have been the 18th.

Q. Could it have been the 19th? A. I don't think so. It was the 24th. I don't know why that's in my mind, but it is the 24th that I signed up with the union.

53 Q. Could it have been as early as the 19th? A. I doubt it. I doubt it very much.

Q. Are you sure? A. I doubt it very much.

Q. Are you sure? A. As sure as I can be without being positive.

* * * * *

THOMAS HOPKINS

having been previously duly sworn, was examined and testified further as follows:

CROSS-EXAMINATION (Continued)

Q. (By Mr. Kruse) Mr. Hopkins, you had testified you moved in with the first tenant into the building complex, is that correct? A. Just about.

Q. How many buildings were there in this building complex? A. There are ten.

Q. Are these buildings identified in a specific way? A. Well, while they were under construction they were identified numerically, 1, 2, 3, 4, 5, 6, 7.

Later on they were identified alphabetically, A, B, C, D.

Q. Were all of these buildings on one street? A. No. There was three buildings that were designated as Luney Court and seven buildings were on Garrison Drive.

Q. Which buildings were on Luney Court, and let's use the numbering system first. A. 1, 2 and 3.

Q. Later on you say there were letter designations. A. A, B, C.

Q. On the Garrison Drive I presume were buildings 4 through 10? A. That would be right.

Q. And lettered D through K? A. Yes.

Q. Were the buildings operated in a particular numerical sequence? A. To a great extent. The tenants came in mostly in that order, 1, 2, 3 and so on.

Q. When you left, were there tenants in all of the buildings? A. In eight buildings there were tenants. I think there were now two buildings that didn't have tenants.

Q. Would these have been buildings J and K? A. No.

Q. What were they? A. They would be 7 and 8 under numerical. And I would like to add before I left there were a few tenants in 7. Two, I think. They were just starting to come in in 7.

Q. Do you remember how long it was before all of the buildings on Luney Court or did there come a time when Luney Court -- when all of the buildings were in fact filled on Luney Court? A. Oh, yes.

56

Q. Approximately when did that occur? A. That would be hard to say. I'd say the first six months at least they were all filled. 1, 2 and 3.

Q. About March they were fairly well filled? A. I would say yes.

Q. Were all of the buildings constructed alike in terms of the number of apartments and number of rooms the apartments contained? A. Well, with the exception of three rooms. Some apartments where you had two bedrooms and others where you had one bedroom.

Q. What I am asking, within a building itself, you had varying kinds of apartments in terms of number of rooms, is that correct? A. Yes.

Q. Were building 1 and building 2 identical in construction in terms of the various rooms each contained? A. Just about, yes.

Q. Were there any significant variations you can recollect? A. There was one variation.

57

In Building 1 you had in the center of the building a situation where you came in the main entrance door you had four apartments on that side and on the other side of that was constructed the same way whereby you had the one main entrance, yet four apartments. In Building 2 you didn't have that.

Q. Was Building 1 different then from the rest of the buildings in that way? A. No, no. There were other buildings where you had that situation, but not exactly the same. You had one building, two buildings whereby you came in the one entrance door and yet there were three families. Those two were the only two buildings you had the extra. Building 1 was the only building you had where you worked in and there were four apartments in that entrance.

Q. How about your wife? She moved in immediately?
A. That's right.

Q. Did she receive phone calls in the evening for you? A. At nighttime. At nighttime, that's the time the renting office closed. Then it varied, they changed the hours. At one time it was five and I think it went to six where the renting girl would pick up the phone at 6:00 and then after that it was on us. My wife answered the phone quite often.

Q. Was this for the purpose of showing prospective tenants buildings? A. No. This was purely on complaints, emergencies.

58

Q. How many phones did you have in your apartment?
A. Three.

Q. Were any of those phones there for the specific purpose of taking incoming calls for prospective tenants? A. Yes, one of them.

Q. Were you supposed to pick that phone up at any time? A. All the time. This phone wasn't tied in with any other office or anything. The other two were tied in with the rental office.

Q. Did you have occasion to show prospective tenants apartments? A. Very rarely. It was on rare occasions that I had to do that because there was a rental person there.

Q. Did you acquaint your wife with the layout of the apartments and introduce her to the setup during the course of the time she was there? A. No, my wife never has in all the years I have been super been involved that way. My wife would only answer the door and take a package or answer the phone, things of that sort. But never involved in the work, per se. In all my years, in this building.

Q. You never took her around to show her what the buildings were like? A. Never, not in any of the buildings, never.

Q. Can you testify as to whether you ever recollect her receiving any phone calls in reference to complaints? A. Oh, yes.

59

Q. Do you recollect the names of any of the people she received phone calls from? A. Yes, I can remember three specific cases where my wife received a call. One was a fire alarm went off in Building 1. We had a lightning storm and there was another time.

Q. Do you remember who the call was from? A. I think Mrs. Gordon, a dentist's wife, in Building 1 made that call. And then I think Mrs. Gordon also had a leak coming in from the roof into her kitchen and she called about that.

Q. Who is this Mrs. Gordon? A. Mrs. Gordon, the same one.

Mrs. Bishop was getting at the same time as that a leak, her kitchen was being flooded from the room and she had a much more severe one. She called my wife.

There was another, Mrs. Fisher's son broke a window in Building 3. She came to my wife with that complaint.

I think that's about all. My wife might remember, but I remember those. I seem to have a recollection, she handled those emergencies and there were others, I'm pretty sure.

Q. Do you recollect whether any or all of these calls she received were at night? A. I couldn't say, honestly. I know the fire alarm call was in the day. And as to the others, I don't know. I don't know whether she received them in the day or the night. But I know the fire alarm because she sent the Police Department down and they came down with a radio car and they came down to shut it off. That was in the daytime.

Q. You testified that you had no help in the building, you were the only person. A. That's right.

That was for not the full time that I was there. I would say I was there eight months without any help. In the last three months I was given the use of a handyman who actually was part of the construction there. He was the handyman for the construction, but when the hundred air conditioners had to be installed, I had use of his services on that job and then I had use of his services to put in the screens for the whole complex.

I would say for eight months I handled the whole job myself. I was given a little help from the construction people in snow removal, the laborers.

Q. Do you recollect who was assigned to you as the handyman for installing the air conditioners and screens?

A. Tom -- oh, his last name. Tom Duboteczvich.

61 Q. When you came for employment initially, were you given a choice as to which apartment you would take or did you request a certain type of apartment? A. No, Dave Halpern took me to the apartment that was designated as the super's apartment.

Q. When you testified in reference to the conversation with Mr. Widerman, you testified you had a conversation with Mr. Widerman prior to going to the union? A. That's true.

Q. Is that correct? A. Yes.

Q. That conversation took place in his garage, was it? A. No.

Q. Where was this conversation? A. This conversation was outside the renting office.

Q. How did you happen to meet him out there? A. I was coming out of the renting office. I think it was half past 4:00, and Mark says, "I'd like to talk over something with you, Tom, about the coverage of the buildings," coverage meaning man and time.

He says, "We have to find some way to be covered a little better."

I thought it over and talked frankly and gave my opinion.

Mark asked me, he said, "What do you think, Tom?"

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I said, "My honest opinion, I think at this point we need another man."

Mark says, "Well, at this time we don't have the money. We can't afford to get another man, so it has to be covered some way without the other man."

I says, "Mark, I can't give any more than I am giving. I'm giving six days a week, putting in long hours and that's as much as I can give you."

Q. Was there anything additional that was said in that conversation? A. No. To the best of my recollection that's all it was.

Q. About how long did that conversation take? A. I'd say not more than 15 minutes. It was a very short conversation. Mark was interested how he could get better coverage for the building.

We had need for better coverage.

Q. Was he asking you for suggestions? A. I said, "Through my experience, in my opinion we need another man. More tenants are coming in every day."

Q. What would you say his attitude was; was he belligerent, looking for help? A. His attitude was not belligerent, definitely not belligerent.

63

His attitude as a businessman was adamant, I would presume not reading his mind, if better coverage was coming, it was coming from me. That's the way I understood it.

As I said, I couldn't give better coverage.

Q. In other words, your impression of what was said was he was ultimately looking for any improvement from you, yourself? A. As far as more hours were concerned.

Q. Did he say to you at that point you had to put in more hours? A. No, he didn't specify more hours, but he was insistent on the facts the place had to be covered on Sunday which

we resolved a different way later on.

Q. You say you resolved in a different way later on; when was it you resolved that? A. I don't know the exact date. But a little later on we went from my working as I said on Wednesday, I took off Wednesday and then worked on Sunday.

The coverage here was pertaining to the three boilers, boiler rooms, that were breaking down. They were giving us constant trouble and with nobody on on Sunday the tenants were in an uproar.

Q. Approximately how long after this were you involved, was it two months, three weeks? A. I go on Sunday?

Q. Yes. A. A month, let's say, two months. I really don't remember. I can't remember when I went on. I don't keep records as to my days.

Your corporation would have maybe more records on that.

Q. This conversation with Mark Widerman was held approximately when, what month? A. Then it might have been in February. I would say before the summer, but not yet at the end of the winter. The winter wasn't finished. It could have been January, the latter part of January or February.

Q. You said you went to the union on June 4th.

What was the thing that caused you to go to the union? A. Well, now, in retrospect, if I may, now that you ask this question, I see now it was a little later than I had this conversation with Mark, not as early as January. Because that was one of the factors that made me go to the union.

Q. Now, you have testified, you testified before as a matter of fact that this conversation was within a very short time before you went to the union. That was your testimony before? A. Could have been a short time.

Q. Was it within a week? Don't forget you testified to this before. Do you recollect what you said? A. As I said, I don't remember. I couldn't recall exactly.

Q. Could it have been more than a month before you went to the union, this conversation? A. More than a month, I don't think so, honestly.

Q. Could it have been more than two weeks? A. That could possibly be in that area, two weeks. I would be likely to think that.

Q. Could it have been more than three weeks?
A. No, two weeks I think would be.

Q. What was the next conversation you had with Mr. Widerman between the time you had that conversation with him and the time you went to the union? The next conversation with him that you can recollect. A. Other than talking about my duties or anything of that sort?

Q. Anything significant that you can remember.
A. Anything significant.

Well, that would be my meeting with Mark Widerman after I joined the union, which, to the best of my knowledge, was June the 24th. I would say it was only a couple of days later, three or four days later I had another conversation with Mark.

Q. Where was that? A. That was in Mark's garage which is adjacent to my workshop.

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Q. This conversation you had with Widerman before you went to the union, could it have been as little as a day before you went to the union? A. No.

Q. Could it have been as little as ten days before you went to the union? A. I already said I'm hazy on the exact time there on that. Not that I'm looking to hedge.

Q. This conversation according to your testimony was sufficiently jolting for you to go to the union? A. Yes.

Q. When was it? You were jolted, you went to the union. When did it take place, this conversation? Was it at least ten days? A. As I said, I don't remember and that's the truth.

Q. Could it have been less than a day? A. Could it have been less than a day?

Q. Yes. Could it have been less than a day? A. I doubt very much.

Q. Could it have been less than two days? A. I don't think so.

Q. Could it have been less than five days? A. As I said, I'm hazy on this as to when that happened as pertaining to when I went to the union.

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Q. I understand you are hazy.

Could it have been less than five? A. I doubt it.

Q. Could it have been less than eight? A. I don't know. Numbers, less than eight, I really don't know. It could have been in a framework of two weeks, let's say. Anywhere in that time.

Q. You mean anywhere from a day to two weeks?

A. Not a day, no.

Q. Closer to two weeks? A. Two weeks or more.

Q. Two weeks or more? A. Yes, to the best of my recollection.

Q. The next conversation you can recollect was with Mark Widerman after you went to the union? A. Yes, any significant. The others were just ordinary about tenants and the building.

Q. Did he intimidate you at any time during that time? Did he threaten you, to fire you; imply you were not doing a good job? A. No.

Q. When is the next time you can recollect before this, specific conversation in question, the one somewhere around two weeks before you went to the union, when was the last time you can recollect before that time him speaking to you about anything significant? A. Anything outside the general run of the building. Anything I would say in any nast way or any dissatisfied way.

Q. When I was asking you about the conversation with Mark Widerman about going to the union, initially you placed that in February, what was when you were trying to think.

Was there any conversation that took place back in February with Mr. Widerman that may have been another conversation you were referring to? A. No, I can't think of any conversation in February pertaining to anything significant in this case; if that's what I presume you are asking me. I had a hundred conversations with Mr. Widerman.

Q. How many times did you complain to Mr. Widerman about not having enough coverage? A. Not too many times to Mr. Widerman. I complained quite a few times to David Halpern who actually was my boss during this whole period. I was acting under the orders from Dave Halpern.

Q. What conversation do you want to tell us about Mr. Halpern that you can recollect in terms of your complaints about needing help? A. I think now we get around to it, Dave Halpern -- I had a conversation with him, then it possibly could have been February when we were having the snow. That's when a super is really under pressure. I did ask Dave Halpern for more coverage at the time because as the super of the building I could see being by myself I was losing control, a little bit of control, and I suggested at that time I needed some help, another man.

69

Dave told me the same thing, we were tight on money at this point.

Q. Did Halpern ever complaint to you about your work in this place? A. Dave Halpern had anything but compliments for me, gave me two raises, Christmas present, very well satisfied, in my opinion, with my work.

Q. What was it in Mr. Widerman's conversation, now that you come to think of it, that caused you to go to the union? You haven't had any trouble with Halpern. The only conversation you can recollect is Widerman.

You have given us all the significant points, you say, yet this conversation caused you to go to the union. A. Yes.

Q. What was it that caused you -- A. We are in the area, if I can remember, my recollection, my thoughts, my feelings, were being asked for more of my time and more coverage from me when in my opinion I was giving far more time and coverage and dedication than the ordinary super.

70 Q. You asked Mr. Halpern previously for assistance?

A. Previously I had asked.

Q. This was around snow time.

Did you ask him for help on that? A. February, I wasn't asking for help on the snow. I was asking for help on repairs and the other duties.

Q. Let us go to this conversation you had with Mr. Widerman after the time you went to the union.

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71

HOWARD LUNGEN

called as a witness, having been first duly sworn, was examined and testified as follows:

* * * * *

DIRECT EXAMINATION

Q. (By Mr. Banks) Do you hold a position with Local 32 E? A. Yes, I do.

Q. What is that position, please? A. Business representative.

Q. How long have you held that position? A. Four years.

Q. Did there come a time when you had a conversation with Thomas Hopkins relative to his joining or becoming a member of a union? A. Yes, there was.

72

Q. Do you recall when that was? A. June 24, 1974.

Q. Do you remember approximately what time of the day that was? A. I believe it was in the morning about 9:30.

Q. Do you remember the essence of what Mr. Hopkins said to you when he came? A. He came into the union office and he said he wanted to join the union. He was a member of our union and he was out on withdrawal status.

We said, "Fine, you want to join the union, we will represent you."

I gave him a couple of cards to then fill out, which he filled out and I sent them down to my main office and then they in turn sent out a letter to Amshu Associates, I believe, telling them that Local 32 E was to represent him for negotiations.

Q. Did you, in effect, direct that letter be sent?

A. Yes, I did.

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73

Q. (By Mr. Bardsley) You said that was in the morning, as you recall, Mr. Hopkins came in. A. Yes, it was.

Q. Did he indicate to you or in any way how it happened that he came that day rather than any other day? A. No.

Q. The documents that he signed, what were they again? A. They were called a building report and a pledge card.

Q. That is standard procedure when one comes in and applies to join the union? A. Yes, sir.

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74

CROSS-EXAMINATION

Q. (By Mr. Kruse) Did Mr. Hopkins indicate to you he had a conversation with anyone else in your union in reference to reinstating his withdrawal? A. No, sir.

Q. From your conversation with him, were you able to get the impression or was it said directly that you were the first person that he had contacted in the union?

MR. BANKS: At what point in time?

MR. KRUSE: During the conversation.

MR. BANKS: At what time with respect to the contact?

MR. KRUSE: In reference to reinstating withdrawal.

A. The only thing he said to me was he knew Ray McDonough, our vice president

Mr. Hopkins told me that he knew him from the Bronx and that's the only conversation we had.

Q. Did he indicate to you he had recently spoken with Mr. McDonough? A. No.

Q. Did he indicate to you the negative, that he had not spoken with Mr. McDonough? A. No.

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75 Q. He did not say anything negating the fact he may have spoken to Mr. McDonough? A. No.

Q. Did he say anything or indicate anything in his conversation with you that he had spoken with any other union person with reference to his withdrawal prior to speaking to you? A. No.

Q. You are sure it was June 24th that he came to you? A. Yes, sir.

* * * * *

THOMAS HOPKINS:

having been previously duly sworn, resumed the stand and testified further as follows:

CROSS-EXAMINATION (Continued)

Q. (By Mr. Kruse) You heard Mr. Lungen testify you knew Ray McDonough? A. Yes.

Q. When was the last time you can recollect having spoken to Mr. McDonough prior to your conversation with Mr. Lungen on the 24th? A. I would say six, seven years.

Q. Have you ever heard of the named Kenneth Childers or Kenneth Childers? A. Yes.

Q. Did you ever have a conversation with Kenneth Childers prior to speaking with Mr. Lungen that you can remember? A. No.

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Q. (By Mr. Kruse) Mr. Lungen testified you spoke with him around 9:30 in the morning on June 24th? A. Yes.

Q. Was that in the union office? A. Yes.

Q. Did you speak to any other union person other than Mr. Lungen that day that you can recollect? A. No, I think Mr. Lungen was the only one on that date. I spoke only with Mr. Lungen.

Q. To the best of your recollection, when was the last previous time that you had spoken with anyone from the union in reference to union business prior to the date of June 24th? A. As I said, it would be seven years, quite a spell.

Q. You were in a conversation with Mr. Widerman sometime after June 24th. You testified sometime after June 24th you had a conversation with Mr. Widerman that you can recollect and I believe you said it was in his garage? A. Yes.

Q. What is the best recollection you have of the date this occurred? A. My best recollection was that it was three or four days after I signed with the union, which was the 24th of June. It was three or four days after that.

Q. What time of the day was this that this conversation took place? A. Approximately 8:30 in the morning.

78

Q. Did you see Mr. Widerman out or did you just happen to see him? A. Well, I was in my workshop, my work bench, and tools were there and Mr. Widerman came in to take his car out and he called me over to him. That's the way the conversation started.

Q. What did he say to you; who was the first to speak? A. He was also the first to speak.

Q. What did he say? A. He said, "I see you joined the GD union." And I responded, "Yes."

Mr. Widerman said, "Well, you won't be around here very long."

I told him, "The union said I couldn't be fired."

He responded, "Well, we will find some way to get rid of you."

JUDGE BARBAN: Mr. Hopkins, the words GD, is that precisely what Mr. Widerman said?

THE WITNESS: No, I'm sorry to say it outright, it is goddamn.

JUDGE BARBAN: Which way did he say it?

THE WITNESS: Goddamn.

JUDGE BARBAN: Go ahead, Mr. Kruse.

79

Q. (By Mr. Kruse) He said the union said -- I'm sorry, you said, "The union said you couldn't fire me."

And he said, "We will find some way to get rid of you"? A. Yes, that's part of the conversation.

Q. Was there anything else said in this conversation?
A. That's all.

Q. Approximately how long did that conversation last?
A. I'd say five minutes, very short.

Q. Was there anything additional that was said in your recollection? Could there have been something additional said in your recollection? A. No, it was such a serious conversation and it was blunt.

Q. So that then it simply consisted of these -- were there very long pauses or was it rather rapid fire? A. No, it was rapid fire. Not much conversation, just a few words back and forth.

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82

Q. Prior to that day, July 22nd, were there any other hostile conversations you supposedly had with Mr. Wideman or he had with you that you want to tell us about? A. No.

Q. How many sons do you have? A. Two.

Q. What are their ages? A. One is 31 and the other is 27.

Q. Are either of them married? A. One, the one 31.

Q. He had been living with you at the time you got the job with Amshu? A. No, he lives five minutes away from me. He has his own apartment.

Q. The 27 year old was living with you? A. Yes.

* * * * *

83 Q. (By Mr. Kruse) Did your son pay any rent to you during this period? A. Not -- he didn't pay rent. He paid most of the bills.

Q. What did those bills consist of? A. He paid the mortgage, which was to the best of my knowledge.

My wife handles most of this, \$245 a month, that's to the bank. And, gas and electric and telephone.

Q. To your knowledge, did he pay it directly or did you and your wife pay it and he reimbursed you? A. We didn't have that much money. I think he gave it to my wife and my wife paid the bills with it. I think it was that way.

Q. He paid you rent? A. No, not rent.

* * * * *

84 Q. (By Mr. Kruse) What is this son's name that lived with you? A. Robert, Robert Hopkins.

Q. Do either of your sons own a jewelry business?

A. My son Robert Hopkins is part owner.

Q. Did your wife work at all for him in that business?

A. Yes, my wife worked for him part time in that business. Which, at that time, was located at Pearl River, New York.

Q. What is the period that your son or rather that your wife worked for Robert? A. Period of time?

Q. Yes. A. I would say sometime in September until it closed. I'm not sure of the date it closed up.

Q. I am not looking for a date. Approximately when did it close up? Approximately January, 1974? A. I wouldn't

have no idea, because in closing that jewelry store up they were opening another one on 33rd and Third Avenue here in the city.

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86

Q. (By Mr. Kruse) What is your nearest recollection as to the time the jewelry store was open and your wife was working there from September through what? A. I have a pretty clear recollection of when she started. But, as to when she stopped, I'm not sure. Sometime in the warm weather, but I'd be hazy on that point of when she stopped working there.

Q. Sometime after the cold weather of this past winter? A. I couldn't tell you, Mr. Kruse. I'm hazy on that point. You'd have to go to the records.

Q. What was your best recollection of the hours she worked during this period? A. Well, she was usually on a four day week. Four days. She was working from 9:00 in the morning and usually half past 5:00, sometimes 6:00 she'd get home. She would arrive home at that time.

Q. Was that the work schedule she maintained during the period you can recollect her working? A. Yes, usually four days a week.

Q. During your cross examination previously, you mentioned you had a living room set in the living room? A. Yes.

87

Q. Was this a regular stuffed couch with a back? A. No, no. It was a flat couch with a cover over it. Not stuffed back.

Q. Did you have any stuffed sitting chairs in the living room? A. No.

Q. Just the folding chairs? A. No, the folding chairs were in the dining room.

Q. Any chairs in the living room? In the living room there's a few leather chairs with leather on the arms.

Q. Are they still there? A. Yes.

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88

Q. You remember approximately how long after you had the conversation with Mr. Halpern you had the conversation with Mr. Wideman? A. I'm very hazy on that. Because, the conversation with Mr. Halpern at that point wasn't critical. I approached him and asked for him. Wherein, in the latter conversation with Mr. Wideman, he asked me for more coverage.

That's the way that worked, so I'm not positive of the dates that I had the conversation with Mr. Halpern.

Q. I believe you stated that from your conversation with him that you got the impression, not that he said it out in words, that he was looking for more coverage from you.

A. Mr. Wideman, yes.

Q. Do you remember how long after then it was that you went to the union? A. That's the point where I'm hazy.

Q. It was after then? A. It was after that.

Q. After you went to the union on the 24th as you stated, do you remember then about how many days it was after then that you saw Mr. Wideman in the garage near your work station? A. It was three or four days.

89

Q. That is when you had the conversation with him about the God Damn union, about you joining the God Damn union?

A. Yes, yes.

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HELEN HOPKINS

was called as a witness by and on behalf of the General Counsel, and having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

JUDGE BARBAN: Would you state your name and address please?

THE WITNESS: Helen Hopkins, 56 Curtis Lane, Yonkers.

Q. (By Mr. Banks) Mrs. Hopkins, you are the wife of Mr. Thomas Hopkins? A. That's right, yes.

Q. During the last two or three years, have you resided anywhere other than at your home in Yonkers, New York? A. Yes, I did on my husband's job. That was up in Sleepy Hollow Gardens.

Q. At what time did you move there? A. It was maybe four, five, six, seven days after the first of September in '73.

Q. Are you still living there now? A. No.

Q. At what time did you leave? A. About a week after July 19th I think it was or 20th. About a week after that.

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CROSS-EXAMINATION

Q. (By Mr. Kruse) Mrs. Hopkins, approximately how many days a week did you sleep at the apartment at Sleepy Hollow Gardens from the time you claimed you moved in in September, 1973 until the time you claim you moved out sometime in July or August? A. Well, I would say six nights a week, except on his day off and I went to Florida for two weeks and that's about it.

Q. Did you move the furniture from your home in Yonkers into the apartment? A. Yes.

Q. Did you take in a living room set? A. Yes.

Q. Could you describe the living room set to us?

A. There's a desk, a chair, two occasional chairs and a couch. Television, some end tables, radio.

Q. What did the couch look like? A. It was a -- let me see, what do you call it. It was like a studio couch.

Q. Was there any stuffed back to it or was it just flat? A. It was flat with my own pillows.

Q. Did you have any stuffed chairs? A. Leather.

Q. Leather? A. Yes.

Q. How about the dining room, did you have your dining room set in there? A. We had a dinette set. It was a round table. I don't know how big it was, like that.

(Witness indicating)

You could fit six people around and four chairs.

JUDGE BARBAN: Before you go any further, about how round? The record will never show your gesture of your arms.

THE WITNESS: I don't know. We fit six people around. What the dimensions were, I don't know. I can't tell.

JUDGE BARBAN: Go ahead, Mr. Kruse.

Q. (By Mr. Kruse) Did this constitute the bulk of the furniture you had at Yonkers? A. Well, most of it, yes.

I tell you, we had a fire and we lost quite a bit -- we lost everything. So, dribs and drabs we were getting things back again.

Q. Did you rent out the apartment over in Yonkers at all? A. My son took it over.

Q. Did he pay you rent? A. No, he paid the bills.

93 Q. Did he pay them to you or did he pay them directly himself? A. He paid them directly.

Q. You yourself did not write out the checks? A. Sometimes I did make out a check for it. He gave it to me, the money to pay for it.

Q. During the period of time that you were supposedly living at Sleepy Hollow Gardens, to the best of your recollection, approximately how many times did you pay the mortgage? A. Well, he gave me the money.

Is that what you mean and then I paid it?

Q. That was the usual practice? In other words, you paid it all the time? A. He gave me the money, most of the time, yes.

Q. How about the gas and electric? Did he give you the money for that or did he pay you? A. Same thing. Sometimes he paid me.

Q. When you say, "the same thing," you just testified you paid the mortgage all the time. A. I said most of the time.

Q. Approximately how many times was it? A. When you say I paid, you are referring to he gave me the money and I paid?

Q. I do not care whether he gave you the money. I am asking how many times you paid the mortgage?

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THE WITNESS: I would say most of the times.

Q. (By Mr. Kruse) How many times can you specifically recollect his paying it? A. Oh, maybe half a dozen.

94

Q. Would you say at least a half dozen he paid it and not you? A. I'd say four to six times.

Q. Could it have been not less than four? A. No.

Q. Could it have been less than four? A. I don't think so.

Q. How about the gas and electric. How many times do you recollect paying it yourself during this period of time. September through the end of June? A. All the time I paid it myself.

Q. You paid it yourself? A. Yes.

95

Q. You say he reimbursed you all the time. Would he do this by cash or by check? A. Both ways. If he had cash, he gave me cash. If he had checks, he gave me checks.

Q. Does he pay you any additional money other than this? A. On occasion if he feels like it.

Q. Did you work for him at any time during this period? A. Yes.

Q. When did you work for him? A. I worked for him when we were in Spring Valley and I'm trying to think if we had the place before then or not. I still worked for him.

Q. During the period that you allege to have been living at Sleepy Hollow Gardens, what were your hours you were working for him, to the best of your recollection? A. My hours were all different because I worked when he needed me. Sometimes I was in at 9:00, sometimes 10:00. Always different days. I didn't have any set days.

It was approximately four days a week I was working.

Q. What was the latest you ever worked in the shop.

A. Well, sometimes I worked until 5:00, 6:00. Sometimes I would go out to eat with them.

If that's what you mean by the time I got home, then I got home.

96 Q. What time did the shop close, to the best of your recollection? A. It was 6:00, except I don't know whether it's Friday and Saturday were different hours. Friday was later, maybe Saturday was 6:00 too.

Q. On the average, what time did you get home, to the best of your recollection? A. I would say about 5:30.

Q. So that you were working there until after 4:30 would have been rather infrequent? A. Yes.

* * * * *

Q. (By Mr. Kruse) During the course of your husband's employment at Sleepy Hollow Gardens, did you have occasion to answer the telephone for business purposes? A. Yes, if he was there he would answer. But, if he wasn't there, I would answer.

I spoke to Sonia, to Tanya, to many of the tenants. Mrs. Gordon, many of the tenants that were there. They gave me the information, I relayed it to him, left him a note.

97 Q. Were you aware of the fact your husband had gone to the union to sign up with them? A. Yes.

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99

MARK WIDEMAN

was called as a witness by and on behalf of the Charging Party and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

* * * * *

Q. Mr. Wideman, are you a shareholder in a company called Amshu Associates, Incorporated? A. Yes, I am.

Q. Are you also a partner in an outfit called Spring Valley Gardens Associates? A. Yes, I am.

Q. Are you familiar with the property of Spring Valley Garden Apartments? A. Yes.

Q. Could you tell us where that property is located?
A. The property is located on North Main Street and Steven Place in Spring Valley, New York.

Q. Do you know when Spring Valley Garden Associates obtained title to that property? A. To my best recollection it was around June '73.

Q. Is that a matter of record anywhere? A. It should be a matter of record. It could be found in the records of our accountants, our auditors.

Q. How about the county records? A. There's a recorded deed also in the county clerk's office.

Q. Did you ever go with your attorney to look for that deed? A. Yes, I went with my attorney, Mr. Kruse, on one occasion and checked it out and copied it as a matter of fact.

Q. Can you tell us what the purpose of getting the deed was? A. The purpose of getting the deed was we had a hearing at that time before the New York State Labor Relations Board. I think it was June 19th.

The question of naming the defendant was brought up during the hearing.

Q. Do you know who Spring Valley Gardens obtained the property from? A. I beg your pardon?

Q. Do you know who Spring Valley Garden Associates obtained the property from? A. Yes, from Spring Valley Gardens, Incorporated. A corporation.

Q. What is the nature of the legal structure of Spring Valley Garden Associates; if you know? A. It's a partnership.

101 Q. Do you know the names of the persons who are partners -- A. That's correct.

Q. -- in Spring Valley Garden Associates? A. Yes.

Q. Would you please name those? A. Sam Halpern, Arie Halpern, Harry Wilf, Joseph Wilf, Jacob Burstyn, Meyer Cold, myself, Mark Wideman, Leonard Wilf and Fred or Frederick Halpern.

Q. Is that partnership also a matter of record, to your knowledge? A. That's correct.

Q. Do you know who the shareholders of Spring Valley Gardens, Incorporated were? A. Spring Valley Gardens, Incorporated shareholders were all except Leonard Wilf and Fred Halpern. All the above-named except Leonard Wilf and Fred Halpern.

Q. What happened there, did they join the partnership?
A. They joined the partnership.

Q. They were not shareholders privately? A. That's right.

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102

Q. Do you know who the shareholders of Amshu Associates, Incorporated are? A. Again, Sam Halpern, Arie Halpern, Harry Wilf, Joe Wilf, Jacob Berstyn, Meyer Gold and Mark Wideman.

Q. In term of making decisions relating to labor relations, let us say hiring and firing, who has the authority to hire people and to fire them in Spring Valley Gardens Associates? A. Well, it's usually been thrashed out among the partners in Jersey.

I give my proxy to my senior partner, Sam Halpern, and he gives back to me what the decision was.

Q. Did you make the decision solely on your own to hire George Schmidt, who was the superintendent at Spring Valley Gardens? A. No, again, the same way. The decision is made in the same way.

103

Q. What about another job? Someone new or creating a job? Would you have the power to do that or would any individual have the power to do that? A. Usually if it comes to major decisions, I have to cut back to the other partners.

Q. Would you yourself have the right to sign a contract with the union? A. Definitely not.

Q. What would be the process you would follow there? A. The process would be the same thing. The same process, I would relate it, what the situation is. I would relate it to the senior partner and he would speak to the others and come back to me with the decision.

Q. Do you have a renting agent for Spring Valley Gardens Apartments? A. Yes.

Q. Could you tell us who that renting agent is?

A. At the present time?

Q. Yes. A. At the present time we have two renting agents. One during the week, one on weekends.

Q. Who is the one during the week? A. Murray Richter and during the weekends it's Marty or Itamar Goldberg.

Q. Where do they do the renting from? A. They rent right from the rental office in the Gardens.

Q. Is there a separate office maintained? A. Yes. One of the apartments is a rental office.

Q. How about in Sleepy Hollow Gardens; is there a renting office for that? A. There was.

Q. Where was that? A. Till the thing was rented there was a renting office. At the present time, there's only a couple of apartments are vacant. The super's wife does the renting.

Q. Who is the super there? A. At the present time?

Q. At Sleepy Hollow Gardens. A. At the present time, Simon Wiseman.

Q. Where was the renting office for Sleepy Hollow Gardens located? A. It was actually two locations. At the beginning it was number one Luney Court. And, we moved the renting office to ten Garrison Drive.

Q. Is that where the other apartments are located?
A. That's correct.

Q. How many apartments do you have in Spring Valley Gardens? A. Spring Valley Gardens, when it's completed, will have 296 apartments.

105

Q. What is the minimum rent you charge? A. Spring Valley Gardens?

Q. In Spring Valley Gardens. A. The minimum rental at the present time is \$245 a month.

Q. How many apartments when completed? A. Pardon?

Q. How many apartments when completed? A. At the present time?

Q. No, how many apartments -- A. 296.

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Q. (By Mr. Kruse) Has Spring Valley Garden Apartments done more than \$50,000 in purchases of services and goods during the past year? A. Oh, yes.

Q. What would you say the minimum estimate you would give is? A. For purchases of materials?

Q. Yes. A. I would say well over \$200,000 or a quarter of a million dollars or better.

Q. How many apartments are finished presently? A. Let's see. We have at the present time, we have about 250. At the present time we have in the area of about 250 apartments completed.

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106

Q. (By Mr. Kruse) In terms of the labor relations decision, do the owners of Spring Valley Gardens Associates act as a distinct group from the shareholders or board of directors from Amshu Associates Incorporated in terms of its labor relations policies and decisions? A. Could you clarify that question? I'm not quite clear.

Q. You said before that when you have a decision that has to be made as far as hiring and firing or as far as whether or not a contract would be signed with the union, this, specifically in reference to Spring Valley Gardens, you would submit that to the partners and they would give a decision.

A. That's correct.

Q. What is your practice in reference to Amshu Associates? A. Exactly the same practice. I submit to the board of directors through Sam Halpern and he would come back with the results of the meeting.

107

Q. The group of people who own Amshu and the group of people that own Spring Valley Gardens, are they identical? A. They are not. We have some partners that own Spring Valley and not Amshu. For example, Fred Wilf and Sam Halpern.

Q. Do those people have a vote or a right to a decision in reference to labor relations through Spring Valley Gardens? A. Yes.

Q. To your knowledge, do they exercise that right? A. To my best knowledge, they do. These meetings take place in Jersey. I believe in Spring Valley I have a proxy to my senior partner and they relay back to me the decision, what the decision is.

Q. Who is the senior partner? A. Sam Halpern. As far as Amshu, he is the president.

Q. He is the president of Amshu? A. Yes.

Q. Does he have a specific title as far as the partnership is concerned? A. He is the senior partner. I call him the

senior partner. If there's a partnership, there is no title really, but I call him the senior partner.

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108

CROSS-EXAMINATION

Q. (By Mr. Banks) Mr. Wideman, you indicated there were one or two members of the partnership that were not connected with the corporation. A. That's correct.

Q. You named those two. A. Yes.

Q. I would gather then that the majority of the members of the board of directors of the corporation and the shareholders are also partners in the partnership? A. That's correct.

Q. You indicated the decisions regarding employment, labor relations, are made with respect to the partners by agreement of a majority of the partners; is that right? A. Yes.

Q. In other words, in some instances, you give your proxy to your senior partner. A. I always give the proxy, most of the cases.

Q. With respect to the matters relating to Amshu, the decisions are made by the board of directors; is that right? A. That's right.

Q. So then actually talking in terms of individuals on the basis of a majority, the same individuals, by and large, are making decisions both in the partnership and in the corporation? A. Yes.

109

Q. With respect to your labor relations policy, what differences are there, if any, in the work done by the employees of Amshu as regarding that do the same work for the partnership? A. I'm sorry. The question is not clear to me.

Q. The superintendent, you have a superintendent that works for the partnership at Spring Valley Gardens?

A. Are you talking about a resident superintendent?

Q. Yes.

You have resident superintendents at both locations?

A. That's correct.

Q. By and large that function would be the same, wouldn't it, as resident superintendent? A. One would be resident superintendent at Spring Valley --

Q. Yes, I am saying their type of work would be more or less the same. A. Yes.

Q. I do not mean they are working in the same place, type of work? A. Yes, yes.

Q. Do you have any benefits for the superintendent, let us say, for Spring Valley Gardens. What benefits, if any, do you have for him? A. That varies. Some employees get benefits like hospitalization, some do not.

110

Q. Does the resident superintendent get hospitalization? A. Some do, some don't. It depends. There's no set policy.

Q. Would that same thing be true with respect to employees at Amshu? A. That's correct.

Q. The hours and days that are worked by a resident superintendent, I know that they might have different days off, but by and large do they work the same general hours? A. The hours, I would like to elaborate a little more.

What is expected of a resident superintendent is normal work hours during the day. But, he is available during the evening. That is very essential.

Q. On call for emergency? A. Correct.

Q. That would be true both at Amshu and Spring Valley Gardens? A. That's correct.

Q. Do you provide uniforms for them? A. No.

Q. Not at either location? A. No.

111 Q. Is there any difference in the usage that is made of the wives of the superintendents at either of the locations?

A. Pardon me?

Q. The difference in the utilization of the wives of the superintendents at either of the locations? A. Pardon me?

Q. The difference in the utilization of the wives of the superintendents at either -- A. No difference at all. It is expected of the wife of the superintendent, the same thing in both places.

Q. In the case of a major change in operation at either location in the case of the partnership, it would be a matter for the total partnership to decide; would that be right? A. That's right.

Q. In the case of the corporation it would be for the board of directors to decide? A. Majority.

Q. Who sets the value on the apartments, the renting procedures, and so forth? A. Again, these areas apartments, coming back talking about the rent?

Q. Yes. A. It comes back to me and after the meeting through Sam Halpern, to me.

Q. The decision is made by the partnership? A. That's correct.

Q. In the case of the corporation, by the board of directors? A. That's correct.

112

Q. Other than the fact, Mr. Wideman, both Amshu and Spring Valley Garden Associates have some common partners in one case and members of the board of directors and stockholders and the other, what is the relationship between those two entities? A. These two companies, may I say if I call them that way, are two independent units. Fact was bookkeeping wise, money wise financing. You have two different entities. Legally, two different entities.

Q. In other words, you have different bank accounts, different payrolls? A. Absolutely.

Q. So then what you are saying is other than the fact they have some common personnel, that there is not any further relationship between the companies? A. What do you mean by common personnel?

Q. I mean common partners in one case and members, stockholders, and board of directors in the other case. A. They are legally two separate entities.

Q. I think you have already stated the headquarters for the partnership is where, the main headquarters? A. Woodbridge.

Q. The home quarters for Amshu is where? A. Also Woodbridge.

113

Q. Same location, same address? A. Yes.

Q. Do they occupy the same quarters? A. This is a quarter occupied by forty corporations.

Q. Do they all share in the upkeep and maintenance?

A. Completely handled individually, separately.

Q. Even though this is at the same -- A. Everybody contributes to the upkeep.

Q. Does Amshu own other properties other than Sleepy Hollow? A. It does.

Q. Where are they located? A. They are located in Spring Valley.

Q. Does Spring Valley Associates own other properties other than Spring Valley Gardens? A. That's the only location.

I'm sorry, I will correct this. Spring Valley did own at one time a small subdivision, eighteen two-family lots which it sold about a year ago to a different company.

Q. Just for the record, Spring Valley Associates is not a subdivision or part of in any way Amshu, Incorporated?

A. No.

MR. BANKS: I have nothing further.

JUDGE BARBAN: Mr. Wideman, if you are available for a few more questions.

114

In this place in New Jersey where Amshu and Spring Valley Gardens Associates each has their headquarters office, I think that's the word you used; is a main office?

THE WITNESS: Yes.

JUDGE BARBAN: Do the two and I am going to adopt your method, I am going to call them two companies. Do the two companies occupy the same space in that building?

THE WITNESS: Well, it does. You see, it has separate files. It's within the same four walls, if that is what you want to know.

JUDGE BARBAN: Is it in the same suite of offices?

THE WITNESS: It is. There's only one suite.

JUDGE BARBAN: Those two both occupy the same suite of offices?

THE WITNESS: Yes.

JUDGE BARBAN: I assume there are some clerical employees there. Do both companies use the same clericals? I am talking about the same human beings.

THE WITNESS: Clerical help, not only those two companies from Jersey are using it for a matter of efficiency. But, each company pays into the main office its share.

JUDGE BARBAN: You are saying something like forty different companies are using the same clericals?

115 THE WITNESS: Well, there's quite a few people working there.

First of all, I would like to retake the forty. I didn't really count them.

JUDGE BARBAN: For example, I assume Amshu has in that office one or more bookkeepers?

THE WITNESS: Yes.

JUDGE BARBAN: Would Spring Valley Garden Associates use the same bookkeepers?

THE WITNESS: It may. It may use more than one bookkeeper.

JUDGE BARBAN: Would they use the same or use different ones?

THE WITNESS: Usually -- see, we have -- I think there are about three people, maybe four, that work. They all work in these particular companies as far as clerical work is concerned.

JUDGE BARBAN: Are there other clericals who work for those two companies?

THE WITNESS: They work for other companies. It's on a share basis.

JUDGE BARBAN: I have a problem handling more than two things at a time.

Right now I want to know whether you know, if you know, whether the two companies share the same clerical employees in this office?

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THE WITNESS: Generally, yes.

JUDGE BARBAN: Are you also telling me that there are other companies who share the services of the identical clericals?

THE WITNESS: That's correct.

JUDGE BARBAN: And all of them contribute proportionately?

THE WITNESS: Yes

JUDGE BARBAN: With respect to the partners in Spring Valley Garden Associates, are they all equal partners with equal financial --

THE WITNESS: No, they're not equal partners.

JUDGE BARBAN: Among the various partners, are there some or more who would occupy the position of an operating partner?

THE WITNESS: Well --

JUDGE BARBAN: Just to tell you what is in my mind through some experience, maybe very limited with partnerships. Normally, there are one or more people in the partnership who is looked to as the operating partner.

THE WITNESS: Yes.

JUDGE BARBAN: It is difficult to run a business with fifteen different heads who are not there.

THE WITNESS: To answer the question, this is the reason why I call Sam Halpern the senior partner.

117 JUDGE BARBAN: Would he correspond to what I would know as an operating partner? Someone who wanted to contact a partnership might contact him? Somebody who needed an answer might go to him for an answer?

THE WITNESS: If I understand you correctly, my answer would be yes.

JUDGE BARBAN: I do not think anybody has asked you for the officers of the corporation. Could you give me those, please?

THE WITNESS: This is Amshu:

Sam Halpern is president and the vice president. I believe Harry Wilf is the secretary. Either Jacob Berstyn or Meyer Gold is treasurer, I don't remember offhand.

JUDGE BARBAN: Do I understand from you that most, if not all of those other gentlemen live in New Jersey?

THE WITNESS: All of them live in Jersey except for me.

JUDGE BARBAN: You live in this area?

THE WITNESS: I live in Spring Valley.

JUDGE BARBAN: All of the properties you have mentioned that either of these two companies own or operate is in Spring Valley?

THE WITNESS: That's correct.

JUDGE BARBAN: This leads me to something I thought I heard you say and I want to develop it a little bit.

118

In respect to each one of these companies, I thought I heard you say that whatever problem came up, you transferred over either to the partners in one case or to the board of directors in the other. They made a decision and you said then it comes back to me.

THE WITNESS: I said, if I remember correctly, I said I relayed to Sam Halpern, gave him the proxy. He relayed it to the rest of the partners and came back to me.

JUDGE BARBAN: You would be the one who would be expected in either case to carry out the decision?

THE WITNESS: Whatever the decision was.

JUDGE BARBAN: When I sit here I try to build a certain pictures in my mind. I am not there. Now, the picture I get --

THE WITNESS: Let me just elaborate one thing.

When it comes to major decisions, I would call this particular case, a union contract, I don't think I would have the power even to sign it.

JUDGE BARBAN: That is consistent with your testimony.

The picture I get is you are hearing on the property, questions and problems would come to you. I get the impression you transmit them to the other people in either company and they would come back to you and you would execute for them.

THE WITNESS: Yes.

JUDGE BARBAN: Is that a correct way to analyze it?

THE WITNESS: Yes, it is more or less correct.

119

JUDGE BARBAN: Because they are in New Jersey and you are not.

THE WITNESS: Well, it's so -- first of all, we communicate on the phone very often. Also, the senior partner occasionally comes to Spring Valley to see what the situation is. Once a week on Thursday I go to Woodbridge and we go over things, spending.

JUDGE BARBAN: Do either one of those two companies have offices in Spring Valley or closer to Spring Valley than New Jersey?

THE WITNESS: We have a construction office, condominium. Amshu is building a condominium in Spring Valley. I use that construction office as my office.

JUDGE BARBAN: Neither of these companies has an office other than the one in New Jersey?

THE WITNESS: Well --

JUDGE BARBAN: A regular one.

THE WITNESS: A regular office you mean for the purpose if you call a renting office? Spring Valley Gardens has a renting office separately.

BUDGE BARBAN: That renting office is manned by people whom you employ or contract with to rent for you?

THE WITNESS: That's correct.

JUDGE BARBAN: That is also true with Amshu or Sleepy Hollow?

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THE WITNESS: For Sleepy Hollow Gardens the situation is different at the present time because we don't have a renting office any more. Because, it's almost rented. The resident superintendent, we expect him and his wife to do the renting weekends and whatever people come.

JUDGE BARBAN: Other than the resident superintendent, do either of those companies have any employees outside of headquarters in New Jersey; is that question clear to you?

THE WITNESS: It's a little --

JUDGE BARBAN: For the purposes of my question I will assume that these two companies have employees who work for them in New Jersey.

THE WITNESS: No, not in New Jersey. Wait, you are talking about clerical workers?

JUDGE BARBAN: Yes.

THE WITNESS: Yes.

JUDGE BARBAN: Other than those employees, does either of the two companies have employees anywhere else?

THE WITNESS: Only Spring Valley.

JUDGE BARBAN: What kind of employees do they have in Spring Valley?

THE WITNESS: Well, Amshu Associates did a few jobs, like condominium, construction.

JUDGE BARBAN: You are talking about construction employees.

121 THE WITNESS: Amshu Associates, yes. Construction employees. Sleepy Hollow Gardens.

JUDGE BARBAN: Amshu also has a superintendent?

THE WITNESS: Amshu Associates?

JUDGE BARBAN: Resident superintendent?

THE WITNESS: In Sleepy Hollow Gardens it has a resident superintendent.

JUDGE BARBAN: What others that you can think of?

THE WITNESS:: At the present time we had a different man, we just lost him. We have a laborer that comes in and does all the cleaning for Sleepy Hollow Gardens. The job is more or less completed already.

JUDGE BARBAN: Mr. Kruse, have my questions opened up anything you want to ask about?

MR. KRUSE: I just had something in mind just as a point of clarification.

I had asked about a renting office and its location to Mr. Wideman. I will just make that clear again.

Q. (By Mr. Kruse) Sleepy Hollow Gardens does not presently have a renting office? A. The superintendent is the renting office.

Q. Did it have a separate and distinct office?
A. It did have. It had two in the beginning. One was Luney Court and one was ten Garrison Drive.

Q. Your partners or the people who are partners in Spring Valley Associates own other property, to your knowledge?
A. No.

122

Do they own other properties?

Q. Yes. A. As a group.

Q. Are they involved in either individually or as a group with others in ownership of properties other than the ones mentioned or Amshu or Spring Valley? A. If you take out my name, it may be so.

Q. How about the Wilfs, Harry or Joseph? A. They may be involved with other properties in Jersey.

Q. To your knowledge are the business relationships of these partners, Spring Valley Garden Associates in terms of ownership of apartments and property exclusively among themselves or do they have partners outside of this group?

A. They may have outside this group.

See, as far as this particular group is concerned, I know that some of the partners, they own jointly different properties in Jersey. How they own it, I don't know. Some of them own different properties.

* * * * *

JUDGE BARBAN: It is my understanding from the parties in our conversation off the record, they have no further questions for Mr. Wideman. Before I excuse him I want to ask Mr. Kruse a problem.

This, I think, Mr. Kruse, is somewhat implicit in an earlier conversation I had with you in which you had said that Spring Valley Gardens would accept the charges named in the complaint as if they had been served on Spring Valley Gardens personally, am I correct in that?

MR. KRUSE: That is correct.

JUDGE BARBAN: From this I had assumed and I think you confirmed it off the record, you have the authority to represent Spring Valley Gardens in this proceeding?

MR. KRUSE: I just want to state for the record I obtained that specific authority in anticipation of this contingency, hoping we would be able to expedite the proceedings.

JUDGE BARBAN: May I have a committment from you that this case can be decided by me as if the complaint in this

case had named Spring Gardens Associates as if the complaint had been personally served upon Spring Valley Gardens at the time it was served on Amshu. Would you accept that?

MR. KRUSE: For the purposes of Spring Valley, I would accept it nunc pro tunc with all the protected amendments that would have to be made in reference to the complaint.

* * * * *

147

LEA SERUR

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

* * * * *

148

Q. What is your husband's name? A. Abraham.

Q. Did you and your husband have an occasion to make application for employment in Spring Valley at Sleepy Hollow Gardens? A. They called us on the telephone, and we came there to Mr. Wideman.

Q. Where did you meet with Mr. Wideman? A. In his house.

Q. That is in the complex, in the apartment complex? A. Yes.

Q. Was it your husband that was applying for a position? A. Yes, my husband.

Q. What position was he applying for? A. Super.

Q. Do you remember the approximate time that you made that application?

* * * * *

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A. '74.

Q. How did it happen that you made this application? A. We have some friends who know Mr. Wideman, and told him that we were looking for a super's job. He told my husband, and he called us and we went there.

Q. You had a conversation with Mr. Wideman regarding that? A. Yes.

Q. What, if anything, did he tell you regarding employment? A. That now the job is not open because the super went to court with them, and when they finished with him they will call us.

Q. Did you have any further contact with Mr. Wideman regarding that? A. We went to Canada to take my daughter to Israel, and when we came back, I don't remember if he called me or I called him, and he told me the job is not ready because they are fighting with the old super. That's it

Q. You have had no further contact since that time?
A. No.

Q. Do you remember approximately when it was that you had the conversation? A. Yes, sure. It was in July, I think the 7th or 8th, ...

* * * * *

150

A. Yes.

Q. Did you yourself speak with Mr. Wideman?

A. Yes.

Q. You say this was in June of 1974? A. Yes.

Q. What is your best recollection of the date in June? A. I think it was in the beginning of June, I think.

Q. Why are you sure that it was in June?

A. Because we talked to some relatives and they told us to call Mr. Wideman, "the job is open, and you can take it." That is why.

Q. You say you think it was the beginning of June, could it have been in the end of May? A. No, it was in June.

Q. Why do you know it was in June? A. Because I think we told him that we have to go to Canada to take my daughter to Israel in July, and it was three weeks or four weeks before. We went to Canada on July . . .

* * * * *

153 Q. (By Mr. Kruse) When this conversation began, you didn't ask who you were speaking to? A. I told you that I don't remember if I called him or he called me. If he called me, he told me "I'm Mr. Wideman." If I called him, I asked him if I was talking to Mr. Wideman.

Q. So you don't remember who called? A. No, this I don't remember.

Q. But, in any event, you were certain you were speaking to Mr. Wideman? A. Yes.

Q. Had you ever heard Mr. Wideman's voice before? A. Yes.

Q. When had you heard it before? A. When Mr. Shimshon told us there was a super's job open and he gave me the phone number of Mr. Wideman, and I called him.

Q. You called him, when was that? A. I think in June it was.

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Q. Now I'm beginning to miss things here. There were two conversations that you had with Mr. Wideman? A. Yes, sure. One he invited us to visit him, we went to him.

Q. When was that? A. In June.

Q. Before the conversation that you were talking about now? A. Mr. Shimshon told us that they are looking for a super in Spring Valley; he gave me the phone number and I called Mr. Wideman, and he told me "Okay, come Sunday, and we will talk to you." And we came, with my husband.

Q. You are going too fast for me, because I'm very slow up here (indicating). A. It was two conversations.

Q. That is what we are trying to get. A. Yes.

Q. Now the first time, you called Mr. Wideman, you are sure of that? A. Yes.

Q. It was you that called him? A. Yes.

Q. Not your husband? A. No.

Q. How long before the second conversation was this that you talked to Mr. Wideman for the first time on the phone?

155 A. The second conversation? When I come back.

Q. The first conversation. A. It was in June, I think the first week of June.

Q. If I may ask, I think I'm a little confused. Mr. Shimshon told you of a job? A. Yes.

Q. You contacted Mr. Wideman? A. Yes.

Q. You visited Spring Valley. A. Yes.

Q. Did you speak to Mr. Wideman again on the telephone? A. Yes.

Q. When was that? A. When we came back from Canada.

Q. That was in July? A. Yes.

Q. So there was only one conversation that you had with Mr. Wideman before going to Canada? A. Yes.

MR. BANKS: To clarify this, you mean telephone --

JUDGE BARBAN: Mr. Banks, you will have a chance on redirect.

Q. (By Mr. Kruse) Are you now sure that it was you who called Mr. Wideman? A. Yes, the first time, yes.

156

Q. So that the statement that you made before when you first telephoned, that you were called by Mr. Wideman is not true? A. I don't understand.

Q. When you first testified, when Mr. Banks was asking you questions, you said you were called by Mr. Wideman on the telephone; that is what you said. A. From where? He knows my number?

Q. You said, when you testified before, that a friend had recommended you. A. He give me his number and I called him.

Q. So now you are positive that you called Mr. Wideman? A. The first time, yes; the second time, no, I don't remember.

Q. The first time you are now positive that you called Mr. Wideman? A. Yes.

Q. When you got on the phone, what was the first thing you said to Mr. Wideman? A. That Mr. Shimshon told me about the job.

Q. You said "Mr. Shimshon has told me about the job". A. Yes.

Q. What did Mr. Wideman say? A. He said "Can you come up Sunday with your husband? We will talk." And we came.

157

Q. What else did Mr. Wideman say to you in this conversation on the telephone? A. That we will come up on Sunday to talk about the job, he wants to see us.

Q. He said can you come up on Sunday with your husband; what did you say to him? A. "Okay."

Q. What else; did he say anything then? A. That's it.

Q. In other words, the only thing that was said on the phone when you got Mr. Wideman is that you said "Shimshon told me of a job." And he said "Can you come up Sunday with your husband?" And you said "Okay." A. Yes.

Q. I see that in June there was a Sunday, June 2, Sunday June 9. Would you recollect what date in June this was that you went? A. I don't remember. I remember it was a Sunday because --

Q. Could it have been June 2? A. I don't remember whether it was the 2nd or the 9th, I cannot tell you.

Q. Could it have been June 16? A. No; because I told him we have to go to Canada in four weeks.

158

Q. You went up to see Mr. Wideman, about what time of day did you arrive? A. About 9:00 it was, 9:00 or 10:00.

Q. Who was the first person that you saw up in Sleepy Hollow Gardens? A. Mr. Wideman.

Q. You went directly to see Mr. Wideman? A. Yes.

Q. Where did you talk with him? A. In his house.

Q. What was the first thing you can recollect saying to Mr. Wideman when you arrived at the house? A. That we came for the job.

Q. Did he talk with you at all about what your experience was? A. Yes.

Q. Would you tell us what the conversation was with him? A. I think he asked my husband where he worked before, what was he doing now; my husband told him, and we talked about the money.

Q. Then what did Mr. Wideman say about the job? A. That he will connect with us, that it will be open.

Q. He told you that the job was going to be open?
A. Yes. And he told us this back somewhere around June 2 or June 9. He had told us he would call us when it was open, because they have some trouble with the old super.

Q. Did he tell you what that type of trouble was?
A. They took him to court because they are in the union.

Q. He told you somebody took him to court?
A. That's right.

Q. In the first conversation you had with him?
A. Yes.

Q. What exactly was the conversation? A. That what I said now.

Q. What exactly was it? A. That the super took them to court, because he's in the union.

Q. In other words, on June 2 or June 9 Mr. Wideman told you that Mr. Hopkins had taken him to court? A. Yes.

Q. Then what else did he say to you? A. That it will be open in a few days, a few weeks.

Q. Did he tell you that was the reason he was going to fire Mr. Hopkins? A. No.

* * * * *

161

Q. (By Mr. Kruse) Did Mr. Wideman tell you that he didn't know whether the job would be open because Mr. Hopkins had him in court? A. Yes.

Q. You are sure it was Mr. Hopkins that he was referring to? A. I don't know the name of the super.

Q. But it was a super at Sleepy Hollow Gardens?
A. Yes.

Q. What else took place in this conversation?
A. He took us to see the area.

Q. How long did you spend with Mr. Wideman?
A. I think a half an hour. He took us also to high rise buildings to see them, and we were waiting there. He was talking on the phone for half an hour.

Q. What else was there in the conversation about reference to the job; did he say that he would get in touch with you, or did he say you could get in touch with him? A. I think he said they would call us when it would be ready.

Q. But you told him, in any event, that you wouldn't be available at least until -- A. Until we come back from Canada.

* * * * *

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Q. Let's see if I can get more specific.

You went to visit a high rise, and you said Mr. Wideman was on the telephone for about a half an hour?

A. Yes.

Q. What happened after that? A. He showed us the area, the buildings, and he went home and we went home.

Q. There was no other conversation after that?

A. Yes.

Q. You just waited around until he got off the phone? A. Yes.

Q. You just waited until after he got off the phone and then you said your good-byes? A. Yes.

* * * * *

166

Q. (By Mr. Banks) You indicated that Mr. Wideman showed you a high rise building? A. Yes.

Q. How far was that high rise building, how far was that from where you first talked to Mr. Wideman? A. In the same area.

167

Q. Did he say anything to you with respect to that high riser other than show it to you? A. He showed us, yes.

Q. Did he at any time mention the name of the super that was to be replaced? A. The name of the super? No.

Q. Now the name of this place where the apartments were located, do you remember the name of the place? A. The name of the apartments? It was in Spring Valley.

Q. Was this where Mr. Wideman lived? A. Yes.

Q. As a result of this conversation, you had over the phone with Mr. Wideman the first time, you went to see him?

A. Yes.

Q. That was in what month? A. In June.

Q. The next contact you had with Mr. Wideman after that was when? A. It was after July 7, because we went to Canada.

Q. Was that in person or by telephone? A. Yes.

Q. By telephone? A. By telephone.

168

Q. You have stated again and again that you don't remember whether you called him or he called you? A. No, I really don't remember.

* * * * *

RECROSS EXAMINATION

Q. (By Mr. Kruse) Do you remember meeting Mr. Halpern; is that name familiar to you? A. Yes.

Q. When did you meet Mr. Halpern for the first time? A. I think we met him before we came to Mr. Wideman; I don't remember.

Q. Do you recollect how long before Mr. Wideman it was? A. I don't remember.

Q. Do you recollect where it was that you met him?
A. In his office, in Mr. Halpern's office.

Q. Is that in Spring Valley? A. Yes; it was during the week, not on Sunday.

Q. Some time during the week? A. Yes. I don't remember when.

Q. Could it have been a couple of weeks before that, or a month before that? A. I think a month before we saw Mr. Wideman.

169

Q. Was the meeting with Mr. Halpern for the purpose of discussing the job also? A. Yes, the super's job.

Q. Could it have been two months before?
A. I don't remember.

Q. It was some time before your conversation?
A. Before we talked to Mr. Wideman.

MR. KRUSE: I have no further questions.

* * * * *

Q. (By Mr. Banks) You say that you spoke to Mr. Halpern? A. Yes.

Q. What was the nature of that conversation?
A. About the super job.

Q. What did he say to you about the super job?
A. That there was a super job open, and he wanted to talk to us, and we went there.

Q. Did he say what super job was open? A. No; in Spring Valley.

Q. Did he indicate to you during the conversation, how many apartments were involved in the complex? A. No, he did not, no.

Q. Did Mr. Wideman indicate to you when he was discussing the matter with you and your husband, how many apartments were in the complex? A. No.

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171

THEODORE MICHAEL FIGURSKI

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

* * * * *

Q. Where do you live, Mr. Figurski? A. 24
Luney Court, Spring Valley.

Q. Is that a part of a development, an apartment
development? A. Yes.

Q. What is it known as, if anything? A. Sleepy
Hollow Gardens.

172 Q. How long have you lived there? A. Approxi-
mately one year and three months.

Q. How long has the development been open, if
you know, before you moved there? A. I would say approxi-
mately a month; I was one of the first tenants.

Q. When you moved in, was there a superintendent
there? A. Yes, there was.

Q. Who was the superintendent? A. Mr. Hopkins.

Q. How long was he superintendent there after
you moved in? A. In terms of months I would probably say
eight, seven, around there.

Q. Did you know where the superintendent's
apartment was on the premises? A. Yes, I did.

Q. In relation to your apartment, how would you
describe that for the court. A. Right around the corner, the
opposite side of the building that I was on.

Q. Are these apartments what is known as garden
apartments? A. Yes, they are.

Q. Would you describe, briefly, how the apartments
are situated? A. Well, there are different buildings which I

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would say, maybe twelve or sixteen units or apartments per building. They are two-stories, and there is a ground level apartment and there is an upper level apartment; and some of the ground level apartments have what they call finished recreational rooms and storage rooms.

Q. Is your apartment a ground level or second floor level? A. Mine is a ground level apartment.

Q. In relation to Mr. Hopkins' apartment, could you say where your apartment was? A. Well, Mr. Hopkins' apartment was also a ground level apartment, the same level as mine, but as I said before, just on the opposite side of the building.

Q. Do you go to business during the day? A. Yes, I do.

Q. What time do you normally leave in the morning? A. I normally leave the house about 7:45, sometimes 7:30.

Q. What time do you return? A. I return between 6:30 and 6:00.

Q. Did you have any occasion to use the services of the superintendent during the time that Mr. Hopkins was superintendent? A. Yes, I did.

Q. Would you say that it was occasionally or frequently? A. In the beginning, frequently.

Q. Would you describe how it was a frequent occurrence during the beginning of Mr. Hopkins' tenure there?

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A. Well, when my wife and I first moved to the apartment, we had quite a few discrepancies in the apartment; no electricity

in the bedroom or bathroom area, a range which didn't work, outside light switches that didn't work, cracked tiles, closet doors that didn't close properly, and a toilet bowl that constantly wouldn't flush. And all of these things had to be rectified, so I went to him for assistance.

Q. Was that in the morning, mid-day, or in the afternoon or when? A. All three. In the mornings before I would go to work I would see Mr. Hopkins then, in the parking lot, and I would address him and tell him of my situation. A couple of times I took off from work purposely to get things straightened out in my apartment; and there were numerous times after work that I would finish dinner and go to Mr. Hopkins and tell him, again, of things that needed to be repaired.

Q. Mr. Figurski, are you appearing today in answer to a subpoena issued by the National Labor Relations Board? A. Yes, I am.

Q. Now with respect to the times you mentioned various things going wrong, did you have any trouble with the boiler? A. Yes, we did.

Q. At what time did you have problems with the boiler? A. Twenty-four hours a day; seriously.

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Q. When you had these problems, what did you do? A. At night we all of a sudden would find there was no heat and no hot water; we would contact him and we would go down to the boiler room and kind of look it over and see what the problem was, and get it going again.

Q. Would this be in the early evening? A. Sometimes in the early evening, a lot of times 2:00 or 3:00 in the morning.

Q. Were there any times when you went to seek the services of Mr. Hopkins, that you weren't able to locate him?

A. One occasion.

Q. How often? A. As far as I can recollect, maybe twice in the period that he was there that I couldn't locate him.

Q. Do you know whether or not any of your neighbors had any problems that were similar to yours? A. The tenants that I am familiar with, Mr. Andrews he had problems with his apartment.

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Q. (By Mr. Banks) You just said you knew Mr. Andrews had problems and you indicated why; did, at any time, Mr. Andrews accompany you and Mr. Hopkins to the boiler room? A. On many occasions.

Q. Do you recall the last or approximately the last time that you had occasion to use Mr. Hopkins services? A. Well, if the court would give me a moment to think about this, it has been a long time.

I think the last time that I used Mr. Hopkins' services was, again, when we had trouble with the boiler this past wintertime.

Q. Did you have occasion to visit Mr. Hopkins' apartment? A. Yes.

Q. Did you see anyone else in the apartment at any time? A. I met his wife.

Q. Was there furniture in that apartment? A. Yes.

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177 Q. (By Mr. Banks) Where did you go to find Mr. Hopkins? A. The majority of times, his apartment.

Q. At other times where did you find him, or did you know where you might find him at? A. A lot of times I would see him around the premises on the grounds and I would walk up to him and discuss my problems with him.

* * * * *

180 Q. What is your best recollection of the number of times that you called upon Mr. Hopkins for his services in connection with fixing your apartment? A. In total from the day I moved in?

Q. Yes. A. At least a dozen or more.

Q. Could it have been three dozen? A. No.

Q. Could it have been two dozen? A. Possibly.

Q. Could it have been sixteen? A. I couldn't give you an intelligent answer to that question.

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186 Q. You said you had occasion to go to Mr. Hopkins' apartment? A. Yes.

Q. Did you go inside the apartment? A. Yes.

Q. When was the first time you recollect going inside the apartment? A. It was after I moved in.

Q. Could it have been in December? A. Before that.

Q. Could it have been in November? A. I don't know.

Q. Could it have been in October? A. It's possible.

Q. You don't really know when it was, as far as the first time? A. As far as a chronological time, no.

Q. Did you step inside the apartment? A. Yes, I did.

Q. Were you in the living room? A. Yes.

Q. Were you in the kitchen? A. Yes.

187 Q. Did you go into the bedroom? A. No.

Q. Did you ever go into the bedroom? A. No.

Q. Did you go downstairs into the finished basement?
A. No.

Q. Could you describe what you saw in the living room as far as furniture? A. A T.V., a T.V. stand, drapes, a multitude of paint cans, a table, chairs.

Q. Any tools? A. I don't remember.

Q. Could there have been? A. Anything is possible.

Q. Could there have been a makeshift tool bench next to the wall? A. No.

Q. Were there any other items other than paint cans in the apartment? A. I guess so, I don't remember; but I guess if there are paint cans there are paint brushes and rollers.

Q. In other words, there was various equipment that you recollect?

Do you remember where it was placed particularly? A. No.

188 Q. Was it against the wall or was it fairly around the apartment? A. Neatly against the wall.

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Q. You said there was a T.V., a T.V. stand, drapes; was that it to the best of your recollection? A. I don't know what you call a piece of furniture, but it was like a sofa-type bed, or whatever you want to call it.

Q. A metal cot perhaps? A. I don't know -- that is not a cot.

Q. Did it have a covering over it, a bedspread or any kind of covering over it? A. It had linens.

Q. When you say linens. A. Cloth, materials.

189 Q. Was it a bed? A. It could have been used for one, yes.

Q. What was the color of the linen that was over the bed, sheets or what? A. I don't know the color of the linen.

* * * * *

190 Q. To the best of your recollection, during the time that you visited the apartment, there was a T.V., a T.V. stand, drapes and some kind of couch or bed? A. Knickknacks.

Q. Such as? A. Dishes, utensils, pots.

Q. These were in the kitchen, though, weren't they?
A. Of course.

Q. Do you recollect what else was in the kitchen?

191 A. A dinette set.

Q. When you say a dinette set, what did it look like? A. A table and chairs.

Q. Was it a folding table? A. I don't remember.

Q. Could it have been a folding table? A. Anything is possible.

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Q. Was she ever there when you were there socially? A. I don't remember.

Q. When you say a couple of times, could it have been twice? A. With reference to what?

Q. Meeting Mrs. Hopkins. A. Meeting her?

Q. Seeing her at the apartment when you went to the apartment on the occasions that you went to the apartment. I am asking you how many times you saw Mrs. Hopkins there.

A. I know of one time specifically, possibly another time.

Q. Once for sure and possibly another time?

A. Correct.

Q. The times that you saw her there, was it at night? A. I don't remember.

Q. You don't know whether it was at night or in the day? A. No.

Q. What was the total number of times that you saw Mrs. Hopkins, other than in the apartment? You met her once in the parking lot, you said, and you met her once and possibly twice in the apartment. What was the total number of times at Sleepy Hollow Gardens that you saw Mrs. Hopkins?

A. A couple of times.

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Q. (By Mr. Banks) Mr. Figurski, first of all, do you know whether or not anyone else in your dwelling had occasion to call or contact Mr. Hopkins for his services?

A. I don't know of any one.

Q. Was there ever a time that you had any problem with water in your apartment? A. Water?

Q. Yes. A. Yes.

Q. When was that? A. When we first moved in.

Q. What was the nature of that problem? A. It flooded.

Q. Did you have occasion to use Mr. Hopkins' services in connection with that? A. Yes.

Q. You had indicated that you went downstairs either with Mr. Andrews or by yourself and touched the boiler?
A. Yes.

Q. What actually did you do when you touched the boiler? A. Reset the burner.

Q. You mean what is known as the reset button?
A. Yes.

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206 JUDGE BARBAN: I am principally interested in what have been your social contacts with Mr. Hopkins since he left.

207 THE WITNESS: He dropped over once to see how I was doing and how my wife was doing, and we sat down and had coffee together.

JUDGE BARBAN: Anything other than that?

THE WITNESS: No.

JUDGE BARBAN: On these occasions when you called Mr. Hopkins for assistance by telephone -- nobody asked you this specifically, but I want to know -- where would you call him? That is, where did you expect him to be when you made the telephone call?

THE WITNESS: His apartment.

JUDGE BARBAN: You would call the number of his apartment?

THE WITNESS: I assume that was the number of his apartment.

JUDGE BARBAN: Where did you get the number?

THE WITNESS: It was given to me by Mr. Hopkins.

JUDGE BARBAN: On some of these occasions, did you ask Mr. Hopkins to come to your assistance immediately or within a very short time?

THE WITNESS: We just notified him of the problem.

JUDGE BARBAN: Let's take the boiler problems that you mentioned; did you ever call him by phone about the boiler?

THE WITNESS: Yes.

JUDGE BARBAN: Did this ever occur during the night-time hours? I think there was some mention about 3:00 in the morning; is that correct?

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THE WITNESS: Yes.

JUDGE BARBAN: When you attempted to get him about the boiler on such an occasion, you called on the telephone, or how did you contact him?

THE WITNESS: Sometimes on the phone, sometimes I walked over and just knocked on his door.

JUDGE BARBAN: What happened when you knocked on his door?

THE WITNESS: He came out and got dressed, and we went down to the boiler.

JUDGE BARBAN: When you called on the telephone, what response did you get from him?

THE WITNESS: I told him that I had no hot water, and I said it was probably the boiler. He said, "Okay, I'll be down there in five minutes."

JUDGE BARBAN: Do you know on that occasion whether he was at the boiler in five minutes?

THE WITNESS: It took me approximately that long to get myself dressed, and he was already out there.

JUDGE BARBAN: But at the time you found him there?

THE WITNESS: Sure.

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General Counsel, are you ready to call your next witness?

MR. BANKS: Yes, Your Honor. However, before I do that, I would like to get a stipulation in the record. Do you recall that particularly during the cross examination of Mr. Hopkins at the prior session, there was a great deal of discussion about a conversation that took place between Mr. Childress of the union, and Mr. Wideman, and I believe counsel for the respondent, at a meeting before the State Board in New City on June 19. Between the two sessions I was able to get certain information from the New York State Labor Relations Board, and I advised counsel of this letter prior to this session; and he indicated a willingness to stipulate to the information which is contained in here. This information is to the effect that the meeting, which allegedly took place on June 19, in fact, took place on June 25, having been adjourned to that date by the proper parties of the New York State Labor Board at that location.

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So at this time, I would request counsel to stipulate, as he indicated he would, that the meeting which the Board indicates allegedly took place between the parties, that is to say, Mr. Childress of Local 32 E, and the respondent at New City before the State Board on June 19, in fact, took place on June 25 of that same year. Are you prepared to stipulate to that effect?

MR. KRUSE: Yes.

JUDGE BARBAN: All right, that stipulation is received.

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GEORGE GREG ANDREWS

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

* * * * *

217 Q. When you moved in at Sleepy Hollow Gardens, was there a superintendent? A. Yes.

Q. Who was that superintendent? A. Tom Hopkins.

Q. Are you still living there? A. Yes, I am.

Q. During the time you lived there, have you had occasion to use Mr. Hopkins' services? A. Yes, I have.

Q. Would you say that has been seldom, frequent, or what? A. Not too much, but he has been around when I needed him.

Q. What occasions have you needed him for, Mr. Andrews? A. We had a leaky bath tub; we had a nail that was punched into a pipe in our basement, which flooded the basement a couple of times. We did some work in the kitchen; but off hand I can't think of any other items.

218 Q. How has your hot water service been in the building? A. Well, when we originally moved in, we could not get the heat below 105 or 107 degrees in the house. We

had trouble with the water, with both the hot and the cold water service, and at times during the night we had to go down to the boiler.

Q. Did you have occasion to use Mr. Hopkins' service in connection with heat or hot water? A. Yes; a couple of times we went down to him to get him to work on the boiler. I worked on the boiler myself. My other job before I got this one was as a heating ventilating and conditioning consultant. I had occasionally worked on it myself, and so at times I went down with him to see what we could do to get it back in line.

Q. In this complex, in relation to your apartment -- first of all, do you know where Mr. Hopkins lived? A. Yes, I did.

Q. Where did he live? A. He lived at 20, which was the next one over from mine, which was 22.

Q. Did you have occasion to go into his apartment? A. Yes, I have.

Q. How many times would you say you have been in his apartment? A. I wouldn't know off hand. I have been there quite a few times.

Q. Would you recall the approximate last time you had occasion to use Mr. Hopkins' services? A. The actual use of them I can't really recall. Once we got all the kinks out of the apartment, the services weren't as necessary as when we first got into the apartment.

Q. Do you recall having called Mr. Hopkins when you weren't able to reach him? A. Would you repeat that?

Q. Have you ever had to call Mr. Hopkins, or ask for his services when you were not able to reach him?

A. What do you mean by not able to reach him?

Q. That he wasn't able to respond to your call.

A. No, most of the time he was home, so there was never a problem. I just went down and knocked on his door, because I was only next door to him.

Q. Would that be in the day or at night? A. That was usually at night, because my wife and I both worked, so that my mother lived close by, and when we first moved we used to eat down there. And it was 9:30 or 10:00 sometimes.

Q. Do you recall whether or not Mr. Hopkins had an automobile? A. Yes, he did.

220 Q. What kind of an automobile did he have? A. It was either, I think, a Buick, but it could have been a Pontiac. It was a mid-size automobile, a Skylark or a LeSabre, or something like that, or a LeMans; that size car.

Q. Do you know what color it was? A. It was copper brown with a black vinyl roof.

Q. How did it happen that you knew he had a car? A. You see him in it, he would drive down to the other part when he left in the morning.

Q. Do you know where he parked his car? A. Yes; usually in front of his apartment, or if it was filled, wherever he could find a spot.

Q. Do you know whether or not Mr. Hopkins is still the superintendent at Sleepy Hollow Gardens? A. Well, I know he isn't at this time.

Q. Do you know when he ceased to be the super-intendent there? A. It was around the time that I was unemployed, which would put it around July.

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CROSS EXAMINATION

Q. (By Mr. Kruse) Mr. Andrews, you say you don't remember exactly the last time that you used Mr. Hopkins' services? A. Yes.

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Q. Could you try now to narrow down for us, was it this past winter, the last time you had occasion to use Mr. Hopkins' services? A. Yes; when the bathroom was fixed. I would say it was either late winter or the early spring, to be honest with you.

Q. That was the last occasion? A. That I, myself had to use his services? Yes.

Q. Do you know more or less what month it was? Could it have been later than March? A. To be honest with you, when the bath tub leaked I went over and got it fixed, that's all I went in to.

Q. Do you remember what manner it was that you reached him at that time? A. Yes; I went and knocked on his door.

Q. Do you know approximately when it was? A. I think it was on the weekend, to be honest with you. A weekend or a Friday, because I had been away for a while.

Q. Do you remember what time it was approximately? A. No, I can't, to be honest with you; I can't remember what time it was. It would have to be after work.

Q. What would be the earliest it would be? A.
6:30.

Q. That would be assuming it was a weekday?
A. On a weekday.

222 Q. If it wasn't on a weekday you wouldn't be sure
what time it would be; is that correct? A. Yes.

Q. In terms of the number of times you attempted
to reach Mr. Hopkins at night, could you give us some minimum
number of times you attempted to reach him? A. No, because
I saw him quite a bit. You see him walking by, and you just
ask him to fix something. It wasn't a matter that you would always
have, as far as the number of times you had occasion to call
him. You would just go over to his apartment and knock on the
door.

Q. Do you remember how many times that would
be; was it more than twenty? A. Well, I would say I saw him
at least twenty times while he was there, minimum. If you are
asking for a number, I really can't honestly give you a number.

Q. Would you know what time the latest at night
it would have been? A. Well, he was out at the boiler after
midnight a couple of times; I was out there working with him.
Mr. Figurski was there also.

Q. When was the last time that would have been?
A. I would say after Christmas; don't hold me to it, but I
think sometime after Christmas, because we finally got the
building straightened out.

223 Q. Do you know approximately how much time
after Christmas? A. No; some time after Christmas.

Q. Do you remember how many of those occasions were on weekends? A. Well, when we first had to go down, we were going down every two or three days, so I can't tell if it was on the weekend or not, until he got it fixed.

Q. Did you generally discover these problems when you got home and go down to get him? A. The problems were discovered depending on when you went to use the bath and had a problem develop from the boiler system in the complex.

Q. Did you take a shower in the morning? A. Yes.

Q. Did you ever attempt to get him in the morning? A. I never had any trouble in getting him in the morning.

Q. You say you were in this apartment? A. Yes.

Q. When was the last time that you can recollect being in his apartment? A. This spring.

Q. Did you go into the living room? A. Yes.

Q. Did you go into the kitchen? A. Well, you can see into the kitchen.

224 Q. Did you ever have occasion to go into the bedroom? A. No.

Q. Could you see into the bedroom? A. Not really, not the way it was situated. You can't see into the bedroom, there is a small hallway into the bedroom.

Q. Did you ever use the bathroom? A. Yes, sure I have.

Q. Did you ever take notice of the bedroom? A. No. I just never paid any attention to the bedroom, that was never my business.

Q. Do you recollect what was in the living room the last time you were there? A. A television, a couple of chairs --

Q. What kind of chairs? A. They were like -- one was a heavy chair, and what do you call it -- like a leather chair, I think it was. There was a couch.

Q. Do you recollect what kind of couch it was? A. Basically it was a flat couch, it wasn't very fancy. I don't think it had a back on it; I'm not sure.

Q. Would you recollect whether it was a metal cot or not, a metal bed? A. A metal bed? No. It was a couch in the living room, I don't know if it was a metal bed.

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Q. Do you recollect what it was covered with? A. Not particularly, to be honest with you.

Q. Do you recollect whether it was upholstered, or whether this was something leather? A. No, I don't recollect.

Q. You say there were a couple of chairs? A. There really wasn't too much.

Q. What do you recollect being there? A. As I said, a television, a couple of chairs, and the couch; and that's about all that I can really remember.

Q. How about things like paint cans or spare parts for the apartment, that kind of thing; what was in there at that time? A. That stuff could have been, I carry that stuff in my house, so to me it wouldn't be out of the ordinary. He could have had stuff like that in the living room.

Q. Do you recollect anything specifically that might have been in there? A. I think he had a couple of tools,

a couple of tools one time when I was there. I know he laid them in the living room when I was there; I don't know if he left them there or not.

Q. Do you recollect tools in the living room?

A. Yes.

That doesn't mean --

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Q. What the meaning is, I think, is not your prerogative to decide.

There were tools? A. I know he lay them down when I was there.

Q. Do you recollect anything specifically, other than the T.V., this couch, and the couple of chairs? A. No; because I wasn't in his apartment that often.

Q. Approximately how many times were you in his apartment? A. Actually, two, maybe three times, actually in his apartment.

Q. Was this in the evening? A. Yes; I think it was after work, usually, a couple of times.

Q. Did you ever meet with his wife? A. Yes, two or three times.

Q. When was that? A. The exact date I don't know. The first time I met her, I went over to get him for some sort of problems, I don't remember what they were. But I knocked on the door and she answered.

Q. Was this in the evening? A. Yes, it was.

Q. Do you remember approximately what time that was? A. Well, it wasn't too late, if I remember correctly, but it was after 6:00, because I was home from work.

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Q. Was it before December of '73 or before January of '74? A. Yes.

Q. When was the next occasion that you met her? A. The exact next occasion I don't know. I would say around Christmas time, the holidays.

Q. Was that after the first time? A. This was after the first time, yes.

Q. Where was she then? A. She was at the apartment.

Q. You said you went into his apartment quite a few times when you testified on direct examination. A. To get something, but not to look around, you asked if I visited him, and there is a difference between them.

Q. You went to his apartment quite a few times? A. Yes.

Q. On those occasions how many times was his wife there? A. I would say at least three that I can remember that I talked to her. She answered the door.

Q. So there were many occasions that she was not there? A. There were occasions, I don't know whether she was there or not. I can't say whether she was there or not; it doesn't mean that she wasn't there when he answered the door.

Q. You saw her on the three occasions out of the many times that you went to his apartment? A. Of the times that I went to his apartment, right.

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Q. As far as the automobile that you saw in the parking space, is there anything particular about that automobile that would enable you to know that was Hopkins' automobile that was there all the time? A. It was the only one; you get to know the people's cars.

Q. How? A. Well, like I know Ted's car. I know the people who live above Ted, their car. You don't know the people, you just see certain cars every day. As far as types of cars, you know whose car is what.

Q. Is there any particular thing about this car that made you know it was his car as opposed to someone else that had a car like that? A. No, sir, because no one had a car just like that.

Q. Well, did you ever check with everyone to see whether anyone had a car just like that? A. Of 25 spots or 25 different people, certain people park, and you get to know what face goes with what car. You know, I know a little bit about it.

Q. But as far as this being the same car every day, do you know for sure that it was the same car all the time? A. I know whose car goes with what face.

Q. I am asking you for a yes or no. A. I don't know the exact license plate, no sir.

Q. Do you know if this was the same car? A. Yes; because it was the only one in the lot like it.

Q. What particularly made you know that this particular car was the same car all the time? A. Because of the color, and it was the only one in the parking lot that was there day after day.

Q. Couldn't it have been a different one every day that looked like that? A. I sort of doubt that. I think you are insulting my intelligence a little bit.

* * * * *

JUDGE BARBAN: Just a moment. I have an objection to the question.

Mr. Andrews, what I get from your testimony is that you saw a copper brown car, a Buick of some intermediate size with a black vinyl top many times in the parking lot, and you have seen Mr. Hopkins get in and out of such a car; is that your testimony?

THE WITNESS: Yes.

JUDGE BARBAN: Let's go on.

THE WITNESS: And there was only such car that was there every day in the parking lot.

JUDGE BARBAN: I am making that distinction from what you told me, that you have seen a car of that description in that parking lot on many occasions, and on some occasions you have seen Mr. Hopkins in and out of such a car.

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THE WITNESS: And I'm sure that was the only car that was there. You are asking me the way I see it.

* * * * *

Q. (By Mr. Kruse) What specifically about this car is it that makes you sure it was the car and no other car like it? A. Because, as I said, no other person gets in and out of this car. Somebody could have drove in, and somebody could come in every other day, but the possibilities of that are very slim, that somebody drives a car and leaves it there all day, and then comes back for it at night. The only person every day to get in and out of that car was Tom.

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232

DENNIS SUMNER

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was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

* * * * *

Q. When did you move in, approximately? A. I think it was the last of December.

Q. Was there a superintendent on the premises at the time that you moved in? A. Yes, there was.

Q. Who was the superintendent? A. Mr. Hopkins.

Q. Do you know whether or not Mr. Hopkins is still the superintendent there? A. No, he is not.

234

Q. Do you know approximately when he ceased to be the superintendent there? A. A few months back, I don't recall exactly when.

Q. While he was the superintendent there, Mr. Sumner, did you have occasion to use his services? A. Yes, I did.

Q. How frequently would you say you had occasion to need his services? A. Well, I guess a couple of times a month.

Q. Were these occasions always in the day, always in the evening, or were they at different times? A. In the day, in the evening, it could have been any time.

Q. Do you recall how late in the evening you had occasion to use Mr. Hopkins' services during the time he was superintendent? A. Mid evening, 9:00, 8:00, something like

that. I would call him on the phone, inquire about garage space that was suppose to go with the apartment. At one time I recall I had some trouble with the oven, and the dishwasher, and I spoke to him on the telephone.

Q. When you spoke to him, do you recall whether or not you got service within a given period of time? A. Yes, it was reasonable.

* * * * *

236 A. I knew who he was, I was thoroughly familiar with who he was. I don't know how regularly, if it was twice a week, or twice a month, but I know he was the super. If I had any trouble, that is who I called.

Q. Do you recall having requested his services on an occasion when you were not able to locate him? A. No.

* * * * *

237

ELISHA THOMAS CARR

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

* * * * *

Q. Mr. Carr, were you ever employed by Spring Valley Gardens? A. Yes, I was.

Q. When were you so employed? A. Well, I was employed with the company before Spring Valley Gardens; I worked at a place called Hewland Arms in Nyack. When I finished work there, they sent me to Spring Valley Gardens to work.

238

Q. Do you remember approximately when that was?

A. It was last year, they sent me over there, I think.

Q. You were employed there for about a year, did you say, at Spring Valley Gardens? A. Yes, almost.

Q. So that we can get some idea about what period that covered, when did you cease working for Spring Valley Gardens, if you are not working there? A. Around -- it was in February of this year.

Q. What was your job at Spring Valley Gardens, Mr. Carr? A. When I went there, I went there as a laborer, and after I was there they made me, after a couple of weeks or something, they had me helping the resident super as a maintenance man, I guess.

Q. When you first went there you were working with construction? A. Yes.

Q. Did there come a time while you were there that you signed a card for Local 32 E? A. Yes, I did.

Q. Do you remember approximately when that was, Mr. Carr? A. It should have been somewhere around three weeks, maybe, before I was laid off, or whatever it was.

Q. You say you were laid off in February of 1974?
A. Yes.

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Q. Who was your immediate supervisor while you were working at Spring Valley Gardens? A. When I left there it was suppose to be a guy by the name of George Schmidt.

Q. What was his position? A. He was a resident super.

Q. Did you also receive orders from and work under any one else? A. Yes, Mr. Blieberg.

Q. Where is Spring Valley Gardens located, Mr. Carr? A. I never knew the address, all I know is I would say North Main Street in Spring Valley.

Q. In Spring Valley? A. Yes.

Q. When you went to Spring Valley, who was it who shifted you to that location; do you know? A. To the job that I had?

Q. Yes. A. Well, when I first went there, I was working for a Michael White; he was the construction super. And I'm not sure whether it was Mr. White or Bill Leflein that told me that they were going to give me or let me work with the resident super; I would be his maintenance man.

Q. While you were there, did you have occasion to discuss with anyone just how long you might be working there?

240 A. Well, I don't remember when it was, but I think it was Mr. Leflein who told me -- he said, "You do good work. You have been with us longer than any laborer has. You got a job as long as you want to work here," he said.

Q. Did you discuss that matter with anyone else, any other supervisor on the premises? A. Not really, Mr. Blieberg told me to stay there as long as I wanted to, also.

Q. Did there come a time when you had a conversation with any one there relevant to the union Local 32 E? A. Just before I was laid off, yes.

Q. To whom did you speak with respect to that?

A. I was working in the courtyard there, and Mr. Blieberg came up to me and asked me "Did you join the union?" So I said, "NO." He said, "I heard you did." I said, "I signed a card for the union." He said, "Oh" and walked away.

Q. Do you remember what month that was?

A. I think it was the same month that I left there, or pretty close to it, it wasn't long.

Q. You indicated that you are no longer working there? A. I'm no longer working there.

Q. How long after you had this conversation with Mr. Blieberg, did you have the privilege of working at Spring Valley Gardens? A. It wasn't long, I don't remember just exactly how long it was, but it really wasn't long.

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Q. Was it as long as a week? A. Yes; it may be about three or four days or something. I had got in my car to go home, and he come up to me --

Q. Who did? A. Mr. Blieberg.

He came up to me and said "Wait; I got something to tell you." He said, "I hate to tell you this, but I got to lay you off." And there was another fellow riding with me, his name was Hurley Williams and he said, "You too, Hurley." So I asked him "Do I get my money?" and he said, "No; you have to come back Friday." Because that was a Wednesday when he laid me off, and I got my money that Friday.

Q. Do you know who did the work you were doing after you left? A. No; I can't say who was doing the work.

It was some guy that came there a few days or maybe a week or something before I left. And I was working along with him, you know, up until I left there. I don't know what his name was.

Q. That was some time late in February of this year? A. Yes.

MR. BANKS: No further questions.

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CROSS EXAMINATION

Q. (By Mr. Kruse) Do you know the exact date that you signed up with the union? A. No, I really don't.

242 Q. Could it have been in January? A. It is possible; I don't know for sure when it was.

Q. Could it have been in December? A. No, it couldn't have been in December.

Q. It could have been in January? A. Yes.

Q. When you signed the union card, or you signed a card for the union, did you ask whether or not the fact of your signing was going to be discussed by anyone? A. No; I didn't ask any questions.

Q. Do you know what the card said that you signed? A. No; you know, all I did is I just signed the card and I gave it to Mr. Schmidt's wife; she said she would fill it out for me.

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DIRECT EXAMINATION

Q. (By Mr. Kruse) Would you state your name, please. A. Adam Fortunato.

JUDGE BARBAN: Would you give us your address, please?

THE WITNESS: 12 Ulman Terrace.

Q. (By Mr. Kruse) Who are you employed by?

A. Amshu Associates.

Q. How long have you worked for Amshu? A. About 22 months.

Q. Were you working for Amshu when Mr. Thomas Hopkins was employed by them? A. Yes, I was.

Q. Do you know what he was employed by Amshu as? A. Resident super.

Q. When did you first meet Mr. Hopkins? A. It was some time in September when he came for an interview; I was introduced to him by Mr. Dave Halpern.

Q. Do you know where it was that you met him at first? A. It was in front of one of the buildings, building one in Sleepy Hollow Gardens.

Q. Do you know when he commenced working for Amshu? A. I don't know the exact date, but it was towards the latter part of September.

Q. Did you ever have occasion to visit his apartment? A. Yes, I did.

Q. When was the first time you visited his apartment? A. Well, I think it was shortly after he moved in; there was a problem in the basement, which we had to remedy, and that was the first time that I had run into this problem. It was very shortly after -- a day or two after he moved in.

Q. Do you recollect what was in his apartment in terms of furniture? A. At the time?

Q. At the time. A. Yes, Well, there was nothing in the basement; on the first floor in the living room there was a cot, a table, a couple of chairs, and we had some equipment in there; some tools and supplies.

Q. When you say we had some equipment --
A. The company.

Q. Was the equipment in there at your request?
A. No, no.

Q. How did it come to be in there? A. Tom Hopkins thought it would be a good idea; he could use the equipment whenever he needed it to finish off the apartment; just before people move in, we would do the installation of toilet seats, maybe a little touch up work, or things for the bathroom; the accessories for the bathroom. And since Tom had room in his apartment, he suggested for me to give them to him, and he put them in his apartment.

Q. Could you describe where the things he kept in the apartment were thrown; for instance, was there anything out in the living room? A. Yes; he would just lay them on the floor in the living room.

Q. Do you know whether or not he had anything in his closets? A. Yes; there were a few occasions when I needed -- when we had more toilet seats, you know, we had a load of toilet seats delivered, and there was some occasions when I needed a couple of toilet seats. And I would go to his apartment and we would go to the bedroom, and he had them in the closet.

Q. Were you in every room in his apartment after he moved in? A. Yes, I was.

Q. When was the last time that you were in his apartment? A. I don't recall the exact date. I believe it was some time in January of '74.

Q. Was this the last time you were in his apartment? A. It must have been, because shortly after that time I went to another job.

251 Q. Did you ever enter his apartment alone, or was he there all the time? A. On a few occasions he gave me permission to go into his apartment if I needed anything, yes.

Q. How did you go into the apartment; was it open? A. I had a pass key. He had two locks on the door, and during the day he would leave the upper lock unlocked, so I was able to get in with my pass key.

Q. The equipment that he had in there, was this equipment involved with his job, or was it involved just with Amshu generally? A. Well, it was involved with his job, in my opinion, because we had a procedure there where this was a new job, and people were coming in for the first time; so we didn't complete the apartments as far as accessories are concerned.

Q. Why not? A. Because we didn't want to put toilet seats into the apartments or toilet accessories until people moved in, because we would sometimes find that they would disappear. So what we did, when the apartment was rented either Tom or I would go and put the accessories in the apartment that was going to be occupied.

Q. When you were first hired, how many apartments were opened at that time? A. We had none open at that time.

252 Q. During the month of September, how many were open? A. I don't think we had any, the month of September. I'm not sure, but I don't think we had any.

Q. During the month of October, do you remember how many you had? A. I believe that we had an inspection from the town in October. Now I don't remember the date, but we didn't get certificates of occupancy until sometime in October. And the tenants came in gradually, we probably had four or five come in in the month of October; but I don't remember the dates exactly of when it was.

Q. How many buildings were there in this complex? A. There are ten buildings altogether.

Q. When was the last building opened? A. While I was there? The last building that we opened was Building 10. But that didn't mean that Building 10 was opened, because where the buildings were situated, we finished 10 before we finished 7, 8, and 9; so 10 building was the last building that I got certificates of occupancy for.

Q. Did you notice the furniture that Mr. Hopkins had in his bedroom when you went into his apartment? A. There was no furniture there.

Q. Was there ever any furniture in there during any time that you were in the bedroom; during any time that you went into that apartment? A. No, there wasn't.

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Q. What was in the bedroom, to the best of your recollection? A. To the best of my recollection there were two closets in the bedroom, and they were filled with, as I said, toilet accessories. I mean paper holders, soap dishes, brush holders, medicine cabinets, toilet materials and materials for the kitchen.

Q. How about the bedroom, was there anything on the floor? A. There was some thing made on the floor, and I think it was a little something like a bench set up.

Q. Were tools kept on this? A. There were tools all over the apartment, yes.

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254 Q. (By Mr. Kruse) I show you this picture which is marked as official exhibit Respondent's 1, and ask you if you can identify this picture (handing). A. Yes; this a picture of the bedroom; that is the work bench that was in there. It wasn't exactly a work bench, it was something set up on a couple of boxes, a saw horse just like it is here.

255 Q. I show you a picture marked official exhibit Respondent's Exhibit 2; can you identify that (handing). A. That also is the bedroom; the reason why I say that is there is a corner baseboard radiator in the room, and in the living room there were no corner baseboard radiators.

Q. Is this the arrangement of the work bench as you saw it at that time? A. That's right.

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257 Q. (By Mr. Kruse) The furniture in the living room, you had mentioned that there was what you have described as a cot? A. Yes.

Q. Would you describe this more fully as to what it was that was in the living room? A. Well, it was a bed where one person could sleep on it. I was in the Army, and it reminded me of an Army cot.

Q. Did it have a mattress on it? A. Yes, it did.

Q. Was it upholstered? A. When I saw it, it had a mattress on it. On the occasion when I was in there, there was a mattress and a pillow on it.

Q. Was there any covering on the cot that you saw? A. I never saw a covering on it, other than blankets and sheets.

Q. Well, that is what I mean. A. I saw blankets and sheets and a pillow.

Q. Were there any chairs in the place? A. I think there were two or three chairs, yes. And something that looked like a bridge table.

Q. Do you recollect anything else that was in the apartment?
A. I think there was a small television in the apartment.

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Q. Did you ever meet Mrs. Hopkins? A. Yes, I did.

Q. On how many occasions did you meet her? A. Maybe two or three at the most.

Q. During how many months period was this? A. Well, the first time I met her was when Tom Hopkins came for the interview when Mr. Halpern introduced me to him. The next time I saw her was in the apartment shortly after they moved in, and then, again, maybe two or three months later.

Q. In terms of beds, you said that the cot that you saw had a pillow and blanket on it? A. Yes.

Q. About how wide was it? A. I would say it was about 30 inches wide, approximately 6 feet long.

Q. Were there any other beds or anything that could be used as a bed anywhere else in that apartment? A. I didn't see any, no.

Q. Did you go down to the finished basement? A. I was there on a couple of occasions, yes.

Q. Why were you down there? A. There was a problem there one time; we had a leak and the ceiling fell in, and we had to repair it; and we did that. And after that, I went in to clean it up, maybe three, four, or five weeks later.

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Q. Did you ever have any conversations with Mr. Hopkins concerning the question of his having a house any place, other than Sleepy Hollow Gardens? A. Yes.

Q. Could you tell us about any conversations you had in that vein? A. Well, when Mr. Hopkins first moved in and took the job I was concerned and so were my employers concerned, about him moving in, because we wanted someone there to cover the job 24 hours a day. So we often said a few words, and I would ask him when he was moving in; and he told me of a situation he had about owning a house which was for sale. And when the house was sold, then his wife would come up and they would move into the apartment completely.

Q. But he said that he was attempting to sell it? A. Yes. From what I understand, he had a buyer for it and something happened and the deal never went through.

Q. Did your understanding arrive from conversations that you had with him directly? A. Yes.

Q. That is what he told you? A. That is what he told me.

Q. When was the last conversation you had with him about that? A. It must have been in January of '74, after the holidays. I'm not sure about the date.

Q. To your knowledge, did his wife ever move in this apartment? A. Not to my knowledge.

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Q. (By Mr. Kruse) Did Mr. Hopkins work alone, or did he have any assistants? A. Well, he worked alone in the beginning. As I said, we had no apartments to be occupied when he first came there as the resident super. And he told me that he could do many things and he would help me out preparing the apartments, getting them ready for occupancy, which involves minor touchups or small repairs that were overlooked in the construction. And we had no tenants at the time, so he did do some repairs for me, you know, we worked

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together in getting the apartments ready for inspection. In fact, before we got any tenants, we had to get the certificates of occupancy, and he gave me some help in getting the certificates of occupancy, by making these minor repairs that were necessary in order to get the certificates. And when people started to come in, I would say, during the month of October some time, I don't remember the exact date, but we were working together, more or less. Because there wasn't that much work there where we needed any other help; because two or three tenants at a time would come in, and we handled it pretty well. We had no problems.

At the time we didn't need help, but as things went along, I had a handy man working for me at Building 1 and 2. I think we handled them along with Building 3.

After we got Building 3 ready for certificates of occupancy, I had a handy man go in there and do whatever was necessary to get these certificates of occupancy. So he did whatever Tom told him when we got the certificates; whatever we would have to do when people moved in; make sure they got their toilets seats, shower heads, toilet accessories, medicine cabinet doors. And we had some medicine cabinets which we put in the basements, and Tom took care of them.

Q. Who was the individual that was assisting at this time?

A. A fellow by the name of Tom Dobutovie.

Q. Was Mr. Dobutovie assigned to work with Mr. Hopkins?

A. Well, when we got to the third Building he wasn't assigned to him, but I let Dobutovie work in these apartments getting them ready, so that after he got through there was very little to do. He wasn't assigned to Tom, but he was working with me and with Tom getting these apartments ready.

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Q. Was this work that Mr. Hopkins ordinarily had done?

A. I don't know if he would ordinarily do it, but he had offered to do it. He told me in the beginning that he could handle this, and handle that, and handle the other things. And when we reached the point where we had too many tenants he couldn't handle it. So I went in and helped him out with Tom Dobutovie.

Q. How long did that last? A. Well, after Building 3, when we went into Buildings 4 and 5, I assigned Tom Dobutovie to him one or two days a week. He requested Tom, and I said it was okay.

Q. As of when was that? A. Dates?

Q. Approximately; I'm trying to get as close as you can recollect. A. We were finishing these buildings from the beginning of the job, coming up towards the back of the job, so we finished Building 1, 2, 3, and then we went to 4 and 5. Now 4 and 5 were probably -- I probably got the C.O. for 4 and 5, I would say in the month of November, or the early part of December.

Now at that time, the work load got a little heavier, so I assigned Dobutovie to Tom one or two days a week, to take care of the older buildings where the people were. We had complaints, but I still took care of the buildings that we were finishing doing so that we could have them fully complete for occupancy with the exception of the toilet seats, shower heads, and things like that.

Q. How long did that last, this arrangement with Mr. Dobutovie? A. Well, I left the job some time in February, and in December, as we went along, Tom Hopkins took Dobutovie any time he needed him. Whenever he had a problem, he would come

to me and say "Look, I need some help." And if Tom Dobutovie was available, I would give him to him.

Q. How frequently did that occur? A. A couple of times a week. At least once a week anyway, and on occasion twice a week.

Q. How long did this continue? A. Right up until I left.

Q. Is it true that you just gave Mr. Hopkins assistance when it came to installing the air conditioning screens. A. When I was there, the air conditioning was installed by the people who delivered them. Now after I left, I don't know what happened, but the air conditioning that was delivered in my time were installed by the people who delivered them. That was in September; then we ran into the winter and we didn't put them in until the following summer, so I wasn't there during this time.

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264 Q. What were Mr. Hopkins' normal hours of employment; do you know of your own knowledge? A. Well, I was there from 7:00 to 4:30 or 5:00; and during this time I would go knock on his door at 8:00, and he was there.

Q. Do you know actually what his working hours were of your own knowledge? A. I assume they were from 8:00 to 5:00, something like that. I'm not sure. I didn't give him any hours, I had nothing to do with that.

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CROSS EXAMINATION

Q. (By Mr. Banks) Mr. Fortunato, I don't think we have established what your actual title was; what was it? A. Construction super.

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Q. What are the duties of a construction super, what do they entail? A. I was in charge of all the construction of the job, complete from the beginning to the end, up until the time the people moved in. It was my responsibility.

Q. When did you cease to work at that location? A. Sometime in February, I don't remember the exact date; but I was transferred from that location to another location not far from that location.

Q. So everything that you have testified to was with respect to what happened there relative to what happened between the time that the tenants started moving in and Mr. Hopkins begin working there, and in February of 1970 -- A. Up until February of '74, yes.

Q. What relationship did you have with Mr. Hopkins; were you his superior? A. What?

Q. Were you his superior, were you Mr. Hopkins' boss? A. Well, I was never told I was his superior, but the job was mine up until after people moved in. I didn't bother Tom Hopkins about anything after he was dealing with the occupants. My main concern was with the new apartments and when we got Tom Hopkins, I was told that he was going to help me out. Because there were no tenants there when I came.

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Q. I believe you said that Mr. Hopkins volunteered to do certain installation work; is that right? A. Not installation work, minor repairs; this is on unoccupied apartments.

Q. At the time that you left, how many of the apartments were occupied? A. I would say about between 50 and 60, when I left.

Q. You indicated that there was a handy man that you let assist Mr. Hopkins? A. That's right.

Q. It was a couple of days a week; is that right? A. Yes.

Q. What did he assist him in doing? A. Well, whatever Tom gave him. When I gave him Tom Dobutovie to work with, Tom did whatever Tom Hopkins told him to do; whatever Tom wanted him to do. So whenever Tom needed him to do something he could do it, because this man was capable of doing anything almost as far as minor repairs, but not heavy construction.

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267 Q. Do you know what day Mr. Hopkins moved in? A. What day he moved in?

Q. Yes. A. I don't remember the exact date, but around the end of September. I don't remember the date; it wasn't important to me.

Q. You were describing certain parts of the apartment; I don't believe you told us what was in the kitchen. Can you tell us what was in the kitchen? A. There was a kitchen cabinet, a stove, a dishwasher, there was a telephone on the wall, and I think I noticed a toaster on one of the kitchen cabinet tops.

Q. But you are not sure about that? A. I'm sure of it, yes.

Q. Did you see anything else in the kitchen? A. No.

268 Q. Do you remember approximately the first time that you entered Mr. Hopkins' apartment? A. Yes; it was shortly after he moved in. I don't remember the date, but the reason why I went in there is we had a lead in the finished basement in the ceiling, and part of the ceiling was taken down. Then on a few other occasions I went back to fix it up.

Q. You said that Mr. Hopkins had volunteered to, and did, in fact, do minor repairs there on the apartments prior to occupancy?

A. Yes; he volunteered to help me, but I think the arrangements were made with the man that hired him, that he was suppose to help me out. This is what I was led to believe, but I never made any demands on Tom Hopkins.

Q. So you are not saying, then, that Mr. Hopkins volunteered to do more than what he was required to do? A. Oh, no.

Q. You are not saying that? A. No; for the reason that there was no occupancy when he first came there.

Q. Were there complaints made out by the building inspector regarding certain defects in the property? A. Well, when we were in the process of getting a certificate of occupancy, when the inspector makes an inspection on a building of that size, he doesn't usually come in and give you a certificate on the first inspection. He makes several inspections and each time he makes an inspection, he gives you a list of items that he wants taken care of to suit him, or the law, or whatever it is. And those are the complaints that we had; not complaints from people who lived there.

Q. Whose job was it to follow through on those defects?

A. My job.

Q. Did you, in fact, make those repairs? A. Yes, sir, absolutely. That is the only way I could get certificates of occupancy.

Q. Did Mr. Hopkins assist you in making those repairs?

A. Very little; he did assist me, but very little.

Q. You indicated that you had frequent occasions to go into Mr. Hopkins' apartment; how many times would you say you went in there? A. I think I would go to see him on the average of once a week, and at times even more than that; because we had a close relationship. As people were moving in, he needed me, and I needed

him. I gave him many supplies that he needed, and he would keep some supplies for me.

Q. What time of day would you normally go there? A. I worked there from 7:00 to 4:30, 5:00; it would be between those times.

Q. When you went there, was Mr. Hopkins there? A. Usually he was there; on a few occasions he wasn't there, but he might have been in one of the apartments.

270 Q. I believe you said that you had a key that would open the bottom lock? A. I had a key that opened every lock on the job.

Q. You had a pass key? A. Yes.

Q. So you were able to get in the apartment when he wasn't there? A. Yes. I had his permission to go in there.

Q. Did you have occasion to visit other apartments and make repairs and adjustments? A. Not occupied apartments, unless I was called in, I wouldn't go into any apartment.

Q. Do you remember whether or not you were called in to the first apartment that was occupied for some work after occupancy? A. I don't remember; but it is very possible that I did; if there was a problem, I was there.

Q. Are all of the apartments -- do they all have the same floor plan? A. I think we have two floor plans. They varied very slightly.

Q. Do you remember which one of those floor plans was first occupied? A. Yes; the one bedroom apartment.

271 Q. That is the variation, whether it is one or two? A. We had one bedroom apartments and we had three bedroom apartments.

Q. But beyond that, they all have the same basic plan? A. Very similar, yes.

Q. Some, of course, are ground floor, and some are on the second floor; is that right? A. That is correct.

Q. What kind of plan did Mr. Hopkins have? A. He had a three bedroom plan with a finished basement, and his apartment was over the boiler room.

Q. Is that the boiler room for the whole complex, or just for that area? A. That boiler room is for three buildings.

Q. Did you identify which one of the buildings the apartment was in that was occupied first? A. Building 2.

Q. Where is that situated on the premises? A. Did you say the building that was occupied first?

Q. Yes. A. 1 and 2 -- we got certificates of occupancy for 1 and 2 at the same time; I don't remember which apartment was first occupied, whether it was building 1 or 2. To the best of my recollection, I think apartment 2 was the first one occupied, and that was in Building 1.

Q. You indicated that there was equipment like air conditioners that were delivered, and some were installed by the same persons who supplied the equipment. Do you know whether or not Mr. Hopkins installed any of that equipment? A. No, he didn't install the ones in Buildings 1 and 2, he didn't install them. The man who delivered them installed the air conditioners. There might have been a time when he might have changed one, or maybe one was stolen and had to be replaced, but I tried to avoid Tom Hopkins from handling any of that equipment, I usually did it myself or some of my men.

Q. Was this what happened up to the time that you left in February? A. That's right.

Q. Do you know what happened after you left in February with respect to the installation of air conditioners, screens, or other equipment? A. No, I don't.

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275 Q. Now you say that you assumed that -- you didn't know Mr. Hopkins' hours exactly, but you assumed that they were 8:00 to 5:00 or something like that? A. Yes.

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277 Q. (By Mr. Banks) In any event, when you were talking about hours, you were speaking about scheduled hours; is that right? Is that what you were referring to, you are saying that as a superintendent his day ends at 5:00? A. No; I am not saying that. What I did say is that I was on the job from 7:00 to 5:00, and Tom Hopkins was there, was in his house at 8:00. Occasionally, I would ring his bell at 8:00, and he was there ready to go to work from 8:00 to whatever
278 time he left. Occasionally, he wasn't there, but on most occasions he was there.

Q. On those occasions he wasn't there, you don't know where he was, do you, or do you? A. Well, I know where he was. On Friday night he would leave early, and he told me he would take his wife shopping, he had to go to Yonkers to take his wife shopping.

Q. Do you know what his work days were; do you know how many days a week he was scheduled to work? A. I was told by Dave Halpern that he would work six days a week.

Q. But do you know of your own knowledge what days he worked? A. Tom Hopkins told me his day off was Sunday for a while, and then it was changed to a Saturday.

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279 Q. (By Mr. Banks) You indicated that there was a considerable amount of equipment in Mr. Hopkins' apartment; and you indicated that you didn't put some of that equipment, such as the toilet seats and

doors to medicine cabinets, and some other toilet items in the apartments before they were occupied, because you had a security problem; is that right? A. That's right.

Q. Did you, in fact, have any safe place that you could keep this equipment? A. I didn't have a safe place, but I could have made a safe place if Tom Hopkins didn't make it convenient for me.

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280 Q. (By Mr. Kruse) With reference to the items you indicated were in Mr. Hopkins' apartment, whose suggestion was it that this gear be put in Mr. Hopkins' apartment? A. Tom Hopkins.

Q. Did he give you any explanation of this? A. Well, he said he had room and he would put it in his apartment, so it would be more convenient for him, and he would have it there when he needed it.

Q. Now the apartment that he lived in, do you recollect how many bedrooms it had? A. One bedroom.

Q. The other thing is -- and the reason I am going over this is I think there is an ambiguous statement as far as the rooms that was made earlier.

Could you describe the rooms of the apartment? A. As you walked into the apartment, you walked into the living room; straight ahead there was a small foyer with a kitchen to the right, and the bathroom; beyond the kitchen on the right also, and then you would walk straight into the living room. As you entered the living room, off to the left there was a door going down to the finished basement.

Q. How many room apartment would that be described as? A. That would be a one bedroom, three room apartment with a finished basement.

Q. It's a three room apartment? A. Yes.

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RECROSS EXAMINATION

Q (By Mr. Banks) At the time you were on the premises you left 4:00, 4:30, or 5:00? A. Usually at 5:00.

Q. You don't know what happened between the time you left in the afternoon, and the time you returned in the morning? A. No, I don't.

Q. How long have you been working for the company?
A. About 22 months.

Q. And you still work for the company at another location?
A. Yes, I do.

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282

DAVID HALPERN

was called as a witness by and on behalf of the respondent and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

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283

Q. When was that, approximately? A. It was either in the late winter or the early spring, maybe February or March or so.

Q. Do you remember exactly when it was? A. I couldn't pin it down to a day, but I would say the beginning or March or in that area.

284

Q. Where did you meet her? A. She came to my office in response -- she and her husband came in response to an advertisement, that was at the offices at Country Village Heights.

Q. Where is that located? A. Right near Sleepy Hollow Gardens; that is in Spring Valley.

Q. Is there another complex that you know the name of or the location of called Spring Valley Gardens? A. Yes.

Q. Approximately how far away from Country Village Heights is that in terms of miles? A. I guess a couple of miles, a mile or two miles.

Q. Is it in the same complex area that Country Village Heights and Sleepy Hollow Gardens is? A. No.

Q. What job were you advertising at that time? A. For Sleepy Hollow; the advertisement was for a resident super.

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285 Q. (By Mr. Kruse) Do you recollect the conversation that you had with she and her husband at that time? A. Yes; we were discussing the possibility of hiring them as a resident super for Sleepy Hollow, and the possibility that things with Tom Hopkins would work out as we anticipated.

We had originally planned that Tom and his wife would move in in the normal way the complete residence in Sleepy Hollow. This was already six or seven months after Tom moved in, and we saw that there was a possibility that Mrs. Hopkins would not move in, so we, at that point, put an ad in the paper and interviewed Mr. and Mrs. Serur.

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286 Q. Would you be able to describe his apartment? A. Yes.

Q. Would you describe it? A. It was a one bedroom apartment with a finished basement. It was typical of many apartments of that type, and there was not much in it at all times when I was there.

Q. When was the last time you were there? A. Probably in June.

Q. The last time was in June of what? A. June of '74.

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Q. When was the first time you were there? A. Well, I was there during many times during construction, but the first time I was in there after Tom moved in, was in September.

Q. Did you visit the apartment between September and June?
A. Yes; many times.

Q. What was the reason that you went to the apartment?
A. Well, we used to meet him many times in the morning, or in the afternoon, many times I had something to tell him or, you know, there were things to discuss about what had to be done, and if I couldn't find him around the job I would go to his apartment to see if he was there.

Q. Did you ever have the occasion to visit his apartment at night? A. I can't remember any.

Q. Do you remember the condition of the living room as you first saw it after he moved in? A. Well, there was not much in the living room. I remember no carpet in the living room, I remember there was a small bed like a cot; there was a card table, and a couple of chairs, folding type chairs, and a television.

Q. Do you recollect any equipment or other items that were around the place? A. Yes; there was much of Tom's tools. When he came he said he had many tools, which he said he was very skilled in his work, and he had a lot of tools; and they were a lot of additional tools which we purchased, and equipment, which were on the floor. And they were virtually all over the floor, like, it looked like a storage area.

288

Q. Did you have any occasion to visit any other rooms other than the living room? A. Yes.

Q. Why? A. Because sometimes we would bring in equipment; sometimes we were taking out equipment also.

Q. What type of equipment? A. Well, tools, bathroom accessories.

Q. Who had requested that this stuff be put in there? A. Well, originally Tom said he wanted to keep this stuff with him, I suppose for his convenience; and that is why they were kept in his apartment.

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290 Q. Did he tell you he was married? A. Yes.

Q. Did you ask him specifically at any point, whether his wife was going to move in with him? A. Yes. In fact, at the interview there was no question as to whether or not his wife would move in. However, I think it was September when he moved in, and his wife did not. And he explained that he had a house to sell, and his wife would move in as soon as the house was sold.

Q. Did you ever speak to him after this about his wife moving in? A. Yes.

Q. Could you describe what conversations took place then? A. It seemed like it was on a basis of any day now we are going to sell the house, and next week we are going to sell the house. And then this went on for a few months, where we were waiting for some action to be taken. And we were patient; we understood that you can't sell a house in five minutes. But after a few months we started to get more persistent, and wanted to know when he was going to move in. Because sometimes he would have to leave the job to go to Yonkers, and this when we started having problems with lack of coverage of the job.

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Q. Did you ever get any complaints from tenants about the lack of availability from Mr. Hopkins? A. In fact, I was called several times at night by the building inspector, who was called at home by tenants; and I called Mr. Hopkins in Yonkers in order to get in touch with him.

Q. Had he ever given you the telephone number in Yonkers to reach him at? A. Yes; I had the number; he gave it to me.

Q. Do you know approximately on how many occasions you called Mr. Hopkins in Yonkers? A. I would say four or five times I had to call him at night for an emergency problem.

Q. When was the first time you heard from the building inspector that you can recollect? A. The first time was when it first started to get cold. It must have been around December or late November when it first started to get cold, and we started to notice problems with the boiler. And then there were a few times after that.

Q. When was the last time, approximately, that you can recollect? A. Probably in May or so.

Q. Do you recollect what the condition of the bedroom was, to the best of your recollection? Was there any furniture in it?

292

A. No, I don't remember seeing anything in the bedroom as far as furniture there. Occasionally there were boxes of equipment, and/or accessories in there.

Q. When was the last time you recollect seeing his bedroom? A. I guess it would be in March or April, the last time.

Q. What was the condition of it at that time? A. It was the same.

Q. Was there any substantial condition, if any, of the apartment in reference to furniture or things stored in it, or any particulars? A. Well,

in about, I guess it was April or so, we set up a permanent type of workshop. At that time, Mr. Hopkins started to move many of his things into this workshop, so I would say the amount of equipment in his apartment started to decrease; but many of the tools which he used constantly, were still in his apartment.

Q. Do you recollect seeing any tools in his bedroom? A. Most of the tools were kept in the living room.

Q. Were any tools in the bedroom that you can recollect?
A. No; not tools, there were accessories and things that were delivered that were stored there, but as far as tools, the tools were usually in the living room.

Q. Was there any work bench or any other item in the bedroom that you can recollect? A. I do recollect a work bench, but I recollect it being in the living room at the time when I saw it. It was sort of -- it wasn't really a work bench, it was sort of a few boards of something knocked together.

Q. When do you recollect seeing it? A. I guess it was every time I was in the apartment. I don't remember if it was moved, but it seemed -- and I was in his apartment probably a hundred times so I got use to where the furniture was -- and whatever there was, it seemed to me that this was some type of work bench, but when I saw it it was in the living room.

Q. During the time that Mr. Hopkins was there, did he ever get any pay increases? A. Yes, I think it was shortly after New Years, when there was an inkling that Tom told me "I think I have a buyer for the house." And I gave him a raise and told him "When your wife moves in, there will be an additional increase." And that was all there was about that.

Q. How many raises did you give him; do you recollect specifically? A. I think it was just the one.

Q. Would you have a record of when the raises were given?
A. I could find out from the payroll records when they were given exactly, if necessary.

294 Q. Did you ever meet Mrs. Hopkins in Mr. Hopkins' apartment? A. No. I think the only time I met her was at the interview, and the day that Tom moved in she was helping him.

Q. Do you recollect any other time that you met her in the apartment or outside? A. No. I have not even seen her since then.

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Q. You said you went in Mr. Hopkins' apartment, how many times did you say? A. Between 50 and 100 times at least.

Q. Why was it necessary for you to go into his apartment so many times? A. It was a convenient time for me to talk to him, if I had to tell him something and I didn't meet him in the street, I would go to his apartment and see if I could speak to him there.

Q. Were you his immediate superior? A. Yes.

Q. There was no one between you and Mr. Hopkins in the line of command? A. I would say no.

295 Q. I believe you described yourself as a builder; is that correct? A. Correct.

Q. What did you actually do? A. Well, what do I actually do now, or did I actually do then?

Q. No, at the time you were Mr. Hopkins' immediate superior.
A. I was involved in the construction of Sleepy Hollow Gardens.

Q. At the time you went into Mr. Hopkins' apartment, then, this was in the daytime; is that right? A. Yes.

Q. You indicated that you gave him, or you recall having given him a raise around the first of the year; are you sure about that? A. I think it was after the first, I think it was in January. I could check it if necessary.

Q. Are you sure you only gave him one raise; are you sure it wasn't two? A. To my recollection it was one, but we could check that.

Q. If I were to suggest to you that that raise that you are referring to occurred around Easter rather than the first of the year, would you accept that? A. Easter being in March or April, you mean?

296 Q. April. A. Well, I doubt that it was that late; maybe it was in February.

Q. Do you remember how much the quantity of that raise was? A. Yes.

Q. How much was it? A. It was a \$10 raise.

Q. Where did you say that this work bench, this improvised work bench, that was in Mr. Hopkins' apartment was located? A. To my recollection it was located in the living room.

Q. But what part of the living room? A. As you walked into the door, it is directly across the room.

Q. In relation to the couch, where was it located? A. Well, by the couch, I assume you are referring to -- there was a bed, I don't recollect a couch.

Q. You saw a bed all the 50 times that you went in there, you saw a bed there? A. A cot type bed, and the work bench, whatever it was, was sort of near the sliding glass windows, sliding glass doors rather.

Q. You said that you were called by tenants and that sometimes you were called by the building inspector; is that right? A. Well, I was called by the building inspector.

297 Q. Not the tenants? A. There was one tenant who would call me at night.

Q. But usually the building inspector would call you? A. Yes.

Q. One tenant would call you at night? A. Yes.

Q. Was that a frequent occasion? A. Two or three times.

Q. What was the occasion for this tenant calling you, this one tenant calling? A. He was missing some screens etc.

Q. What was the subject matter of the building inspector calling you? A. Well, the building inspector would call when there was a major problem like in the middle of the night, or the weekend.

Q. And this would be a leak or something? A. Usually a major problem. If there was a screen missing, the building inspector wouldn't bother calling you about that.

Q. I believe you said that the complaints increased in the spring or summer? A. In the spring.

Q. How many tenants did you have at that time? A. I would say in the spring we had about 75 or 80 tenants.

298 Q. How many would you say you had in the winter? A. Well, a lot of tenants moved in during the winter. You mean what part?

Q. You said that most of that increase that ballooned up to 70 or 80 people moved in in the winter. A. Between September it increased let's say 10 every month until the spring.

Q. Are you saying that you had more complaints from tenants in the spring than in the winter? A. Well, in the winter we had complaints about heating; in the spring there were other complaints like, we got complaints in general.

Q. But most of these complaints had to do with structure defects or defects that were originally involved with the apartments; is that right? A. Well, there were no structural defects in what I know as structural defects to mean. If a doorknob is missing, that is a structural defect, maybe; but most of the problems were kept for the emergency problems. The problems with a knob missing or a window didn't work, or a door was sticking was not an emergency problem we had.

Q. How many days did Mr. Hopkins work? A. A week?

Q. Yes. A. He had five working days which were from 8:00 to 5:00. If he didn't have tenant complaints he would do other thing, because the job was not actually occupied. He did have responsibility to be available for emergency complaints during the evening as well, six days a week.

Q. There was a time when he had Wednesdays off; is that correct? A. Originally he had Sundays off, and we found that Sunday was a bad time, especially in the winter, because on Sunday there was no one else to service the job. There were no construction people on the job, so we moved it to Saturday. Excuse me, we moved his day off to Saturday so that he would be there on Sunday.

On Saturday it was easier to supervise the job; Mr. Fortunato would come in on Saturdays and I would come in on Saturdays occasionally, so it was easier to service a complaint then.

Q. Did you ever have occasion to compliment Mr. Hopkins on his work? A. Yes, occasionally, especially in the beginning.

Q. Did you have occasion to go into other apartments in the complex? A. Yes.

Q. How frequently. A. It would depend. If there was an emergency complaint, I would go in and take a look at it.

300

Q. I will ask you, isn't by the nature of the structure and design of a garden type apartment, that you have problems that you don't have in a highrise? A. Some types of problems you wouldn't have in a highrise, but you do have in a garden apartment.

Q. The highrise apartments are in one structure straight up, and you have whatever facilities you have for repair purposes -- is that one place, and the super, is that one place, and the elevator and what not? A. Well, yes. In a highrise building everything would be in one building.

Q. Compact more or less? A. Yes.

Q. Whereas a garden apartment, they ramble over a wide area and there are different problems? A. Yes.

Q. You indicated that you spoke with the Serurs with respect to the possibility of the job as superintendent, and the first time was back in the winter? A. Sometime around then, yes.

Q. You indicated speaking to them on the phone, did you make the call to them in June? A. Yes.

Q. Requesting that he come down to talk with you? A. Yes.

301

Q. With respect to the coverage, as the tenants moved in, who installed the air conditioners? A. Well, in the first new building the air conditioning was installed -- every apartment had one air conditioner and the option to get an additional air conditioner. In the first two buildings we installed the air conditioners, because it was in September, and it was warm, and we installed them before the tenants moved in. As we got into the winter, we did not install the air conditioners in the winter, because there was no need for them.

When the springtime and the summer came, the air conditioners had to be installed in the occupied apartments, and Tom was given the responsibility of installing the air conditioners. And he had a full time worker working with him five days. Sometimes, you know, he worked with him full time in the spring to help him.

Q. Full time? A. Yes.

Q. Who was the worker, do you know? A. That was Thomas Dobutovie.

Q. Are you sure he worked full time with him five days a week? A. Originally, he was not working with him full time. As more and more tenants moved in, and especially when the air conditioners started to come in, he was with him five days a week full time.

302 Q. Do you have screens in the building, does the building have screens? A. Yes.

Q. How were the screens installed, and by whom? A. In the first two buildings where the air conditioners were installed by a service man, the screens were installed by the service man, because then winter came and we wouldn't be installing any screens. In the spring when the necessity arose, we ordered all the screens and this necessitated them being set up in the apartments where people were living. And it was always Tom's responsibility, with his assistant, to install them.

Q. What hours did his assistant work? A. 8:00 to 4:30.

Q. In a complex like that where you are talking about 70 or 80 tenants spread out over this area, with the installation of equipment, and with the adjustments that have to be made in a new apartment that hasn't been occupied before, wouldn't normally that work spill over into the evening hours? A. Not the installation work; that was taken care of during the day.

303

Q. I don't mean the installation, I mean if there were 75 tenants occupying virtually new apartments -- I realize that some of them moved in in September, and they gradually moved in -- but brand new apartments that haven't been used before, aren't there adjustments that would normally have to be made in the building, be it an electrical situation, a door that doesn't fit properly, some screens and other little things? Isn't that the kind of thing that you have to give to tenants in that respect, particularly tenants who, for the most part, are out working during the day, that a great deal of that work would have to be by necessity, done in the evening? A. I guess occasionally it might be, yes. Not through necessity though. Let's say if a tenant has a leak or something and the clock strikes 5:00, I wouldn't want him to walk out the door and say "I'll see you tomorrow."

Q. When did you say was the last time you were in Mr. Hopkins' apartment? A. Probably in May.

Q. Do you remember what the occasion was for your being there at that time? A. I had to speak to him about something that had to be done; I don't remember exactly what that visit was for.

Q. But you believe it was May? A. The visit? Yes, I believe it was.

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JUDGE BARBAN: Before the redirect, I would like to ask the witness a couple of questions.

When did you say the advertisement was made in the paper for a resident super? You know the thing I'm talking about.

304

THE WITNESS: Yes; that I mentioned?

JUDGE BARBAN: Yes; it had relation to the Serurs.

THE WITNESS: I would say in either the late winter -- I don't think it was in the spring, it was still cold, so it was probably the late winter.

JUDGE BARBAN: Is there any reason why a copy of that advertisement could not be produced in this hearing?

THE WITNESS: I assume the paper could be contacted.

JUDGE BARBAN: Counsel, I think that would be the best evidence of the ad.

MR. KRUSE: As a matter of fact, I made a note to check the records, and I also have a note to check when Mr. Hopkins got his raise.

JUDGE BARBAN: I have no other question. This is going to be very general, and maybe a little difficult, but I think you could do it. I would like you to tell me, in your own words, as completely as you can, what arrangements you made with Mr. Hopkins when he was hired; what you told him he was to do, what his responsibilities were, what the conditions were, what you expected it to be? Would it be possible for you to tell me that?

THE WITNESS: Well, he told me he had experience, and we checked and he was an experienced man in this line. And we explained to him that this was not -- he was not coming into a situation where there was a completed building that had been there for five years, and that ultimately he would be running the job without constant supervision. He would run the job and make sure that everyone was happy, and it would be a normal situation without constant running back and forth and ordering supplies and things like that. But I also explained to him that in the beginning, the responsibility to the tenants would be less,

since there were fewer tenants, and his responsibility to me and in helping Adam Fortunato would be greater in preparing the apartments; in making sure and in trying to anticipate problems. And, in fact, this was made quite clear, because it is often difficult; we don't like to hire a superintendent and tell him he is a resident superintendent, and then the first day he comes in, we tell him that he must go into an apartment and put on a toilet seat. So the arrangement was as more people moved in, his responsibility for construction would be less, and for maintenance would be greater.

JUDGE BARBAN: With respect to being a resident, can you remember, with any degree of specificity, what was said to Tom on that point?

THE WITNESS: Yes. There was some question about his being a resident, but I told him he must reside there in the interview, it was very important not only to meet Mr. Hopkins, but to meet his wife, to know that we were having responsible people.

JUDGE BARBAN: You are saying it is important --, you are getting off the point. The question was, what was told to Mr. Hopkins. And you are putting it in those terms.

THE WITNESS: He was told that he must reside there, and besides his duties during the day, he must be available at night for complaints.

We gave him a phone that we pay for, so that if he had to call me at night, or if he had to call an emergency number at night, or if tenants had to call him at night, he would be available. And naturally, if he decided one night he wanted to go and buy something, he was free to come and go; it was not like he must remain there

24 hours a day exactly; but if a tenant couldn't reach him at 7:00 in the evening, he should be able to reach him at 8:30 or 9:00. There was no situation that at 5:00 he was to go home some place else; it was strictly a resident superintendent job.

JUDGE BARBAN: What specific discussions, if any, were had with Mr. Hopkins about his wife.

307 THE WITNESS: At the interview I met Mr. Hopkins and his wife, and there was discussion about how his wife is not on our payroll, however there was discussion of future possibilities for rental; that during the course of construction we had a rental office, and a rental agent on the premises. After the place was fully occupied there was a discussion with Mrs. Hopkins, that she would be able to make additional income on rerentals, because there would no longer be a full time rental office on the premises. And in addition, if she was home, she was to help her husband in doing his responsibilities. If he was in one tenant's apartment, and another tenant called to complain, she should pick up the phone and answer it, and not say "This is my husband's job, I'm not going to answer the phone."

JUDGE BARBAN: The thing that disturbs me, and disturb is not exactly the word, but it has occurred to me as I heard this case going on -- was it ever made completely clear, or perhaps this wasn't the case, was it ever made completely clear to Mr. Hopkins that a condition of his employment was that his wife was to live in that apartment? In other words, he couldn't have the job if his wife didn't live there?

THE WITNESS: I would say at the beginning the importance of his wife being there was in actuality very important, because --

JUDGE BARBAN: If I may interrupt, Mr. Halpern. I'm a precisionist, because I have to be. You said it was important, it may be important to you, but the question was: What did you say to Mr. Hopkins.

THE WITNESS: Concerning his wife you mean?

JUDGE BARBAN: That's right.

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THE WITNESS: I made it clear that this was a loose arrangement, that his wife was to assist him in filling his responsibilities, and that his wife, while she was not on our payroll, if she did not wish to assist him, then he would not be able to answer all the phones and do everything else, and be covering the job six days a week.

JUDGE BARBAN: In point of time, as nearly as you can fix it, when did you get these calls from the building inspector, and/or the one tenant you remember calling you at home? Let's start with the last first. When was the last such call that you remember you got?

THE WITNESS: Well, the last time was that one tenant who use to call me, it was very recently, and I was no longer working with Amshu. He assumed I was still with Amshu, and he came to talk to me about something. That was the last time, and this was, I would say in September of this year.

JUDGE BARBAN: But that was after Mr. Hopkins was gone?

THE WITNESS: Well, you asked me the last time he came to me.

JUDGE BARBAN: When the tenant came to you, was this still a complaint about how the work was being handled at the apartment?

THE WITNESS: Well, yes.

JUDGE BARBAN: There were still complaints?

THE WITNESS: Yes. He was complaining about a parking problem.

JUDGE BARBAN: When was the last time the tenant or building inspector complained to you during Mr. Hopkins' tenure?

THE WITNESS: It was in May, the last time a tenant called me was in May.

JUDGE BARBAN: What about the building inspector?

THE WITNESS: I would say April.

JUDGE BARBAN: And all the others were before that?

THE WITNESS: Yes.

JUDGE BARBAN: Now you said on these occasions -- I assume you didn't try to call Mr. Hopkins in Yonkers on the building screen problem?

THE WITNESS: Not on the screens.

JUDGE BARBAN: On the other occasions when you called Mr. Hopkins, what did you say to him?

THE WITNESS: When I called him at night?

JUDGE BARBAN: Yes.

THE WITNESS: I told him that we have a severe problem, and he must come down right away.

You mean a reprimand, is that what you are saying?

JUDGE BARBAN: No. I am not suggesting anything, I am just asking you for what you told Mr. Hopkins.

THE WITNESS: I told him that there was a problem, and that he should be there, and that if he is not there, he should get down there right away.

JUDGE BARBAN: What did he say to you?

THE WITNESS: He came down, he came down to the job.

JUDGE BARBAN: Do you recall anything else that you said to him, or that he said to you on these occasions when you called him in Yonkers?

THE WITNESS: The situation was brief, it was urgent, and he came. It was not a matter of a discussion on the phone. Any lengthy discussions would take place the following day.

JUDGE BARBAN: What other discussions took place?

THE WITNESS: I reiterated that he should not go home to Yonkers to spend the night in Yonkers, his home should be Sleepy Hollow Gardens.

I was not the type of employer to say "Do this or get out." But I was giving him persistent encouragement that he should get his residence completely in Sleepy Hollow Gardens.

JUDGE BARBAN: What did he say?

THE WITNESS: He said he was trying to sell his house.

I was foolish enough after eight months to still believe this.

JUDGE BARBAN: Just a moment. Just give me the answer to the question I am asking, which is what did he say.

311 THE WITNESS: He said he would try to sell his house, and the deal fell through with the other potential buyer. And at no point did he give me the impression that his wife would not be moving in; he always kept saying, "It will be soon, it will be soon."

JUDGE BARBAN: Any questions, Mr. Kruse?

REDIRECT EXAMINATION

Q. (By Mr. Kruse) Did you advertise the job before Mr. Hopkins was hired? A. Originally in August, that was the first advertisement for Sleepy Hollow.

Q. What did the job call for? A. In the ad?

Q. Yes. A. It said resident super.

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313

Q. (By Mr. Kruse) Did Mr. Hopkins come to Sleepy Hollow Gardens with his wife? A. Yes.

Q. Was he asked to bring his wife, or did he bring her voluntarily? A. I don't remember whether -- I think I asked him to bring his wife, and I think he also said "Naturally I will bring my wife." This was a common understanding.

Q. At the time that you interviewed Mr. Hopkins, did you discuss the question whether or not they were going to move into the apartment? A. Yes.

Q. Did you state to Mr. Hopkins that there was a requirement of the job that they move in the apartment? And when I say they, I mean him and his wife. A. Yes.

314

Q. Was there any doubt whatsoever left to Mr. Hopkins in the conversation -- did Mr. Hopkins express any doubt as to whether or not his wife was, in fact, required to move into that apartment? A. No. In fact, he expressed his knowledge of the position of resident super, saying that he was in that position in a building in the Bronx. I think it was the Bronx; and he understood what an intricate part of the job it was that his wife was there to assist him. And there was no question about that.

Q. Did Mr. Hopkins and you discuss the kind of apartment that he was going to get? A. Yes.

Q. How many rooms were in the apartment that he got? A. A living room, a dining room, and a kitchen, and a bedroom, a bathroom, and a finished basement.

Q. Did you ask him whether or not he had any family? A. Yes.

Q. Did you ask him whether or not he had intended to have his family move in with him? A. Yes. He explained that he intended

to have his son move in with him, as well as his wife. Originally when we first met, I wasn't sure that he had any small children. As it turned out, he didn't have any small children, but he had a large son. And he said that his son was going to move in as well.

315

Q. Did you discuss the term resident super with Mr. Hopkins at all? A. We discussed the duties involved in the job of resident super; we didn't analyze the term academically.

Q. Did Mr. Hopkins or Mrs. Hopkins tell you that they both intended to move in? A. Yes.

Q. Was there any suggestion or statement by either of them that Mrs. Hopkins perhaps might not be moving in? A. He raised the possibility that it may take a week or two for them to sell the house, and that his wife would move in immediately after that.

Q. I had asked you a question about a work bench in the apartment; could you describe the work bench that you mentioned? A. It was not a work bench, it was a makeshift type of work bench with a few pieces of lumber for support, either a sheet of plywood or a piece of sheetrock or something. It was not a real work bench, just something with tools lying on it, things like that.

Q. When the screens are installed in the apartments, are they removed seasonally, or do they remain? A. They remain.

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316

Q. When did you cease to have connection with the company? A. Well, I ceased working there in June, the end of June.

Q. Do you still have an interest in the business? A. I still have an interest in Sleepy Hollow Gardens yes.

322

THOMAS DOBUTOVIC

was called as a witness by and on behalf of the Respondent and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

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327

Q. Well, I am trying to get your best memory; I want to get the best memory that you have.

Were you told to work with Mr. Hopkins at some time?

A. Yes; not all times no work Mr. Hopkins. Mr. Hopkins my boss one moment, one time Mr. Hopkins say "Please big boss, no have helper, please Tom one week, two weeks you work for me." And the boss say, "Okay." I go to Mr. Tom Hopkins, I work one week, two weeks, three weeks, and Mr. Dave call office and say, "Please Tom help me, no have worker here." I go one week, two weeks there and work. I all times work around, two jobs.

Q. Are you saying that you worked some times for Mr. Hopkins, and some times for Mr. Bleiberg? A. Yes, sure.

JUDGE BARBAN: When the witness refers to Mr. Dave, he is talking about Mr. Bleiberg?

MR. KRUSE: Mr. David Bleiberg.

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337

CROSS EXAMINATION

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340

Q. You said that there were a lot of materials in Mr. Hopkins' apartment; do you know why those materials were there? A. Mr. Hopkins no have extra room to put materials; all materials no have garage keys, special building no finished, and material put in the basement and the bedroom.

341

Q. So Mr. Hopkins had these materials there to protect them; is that right? A. Yes.

Q. He had those materials there so that he could better do his job as superintendent? A. Yes, sure.

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343 Q. Could you please tell us who you work for? A. I am working for Amshu Associates.

Q. How long have you worked for Amshu? A. 1973 I started to work.

Q. Could you tell us what month you started in 1973?
A. In January.

Q. Around January of '73? A. Yes.

344 Q. Where did you work in January of 1973? A. '73 I was working in Spring Valley Gardens.

Q. Is that Amshu, or is that Spring Valley Gardens?
A. The same company, Spring Valley Gardens.

Q. Did you ever work in Sleepy Hollow Gardens? A. Yes, sir.

Q. How long did you work in Spring Valley Gardens?
A. About a year and a half.

Q. When did you leave Spring Valley Gardens? A. I think February of '74.

Q. Did you know Elisha Carr? A. Yes, sir.

Q. Did Mr. Carr work with you? A. Yes, sir.

Q. Were you present when Mr. Carr testified at this hearing; were you in the court? A. I think so, yes.

Q. Did you hear Mr. Carr say that you told him, or you asked him whether or not he had joined the union? A. I never asked no question.

Q. Did you hear him say that? A. I hear, but it is not true, I never asked the question; I don't know about it, it is not my business.

Q. Did you ever discuss the union with him at all?

345 A. No, nobody. You can ask Mr. Schmidt, let him say if I ever asked anybody questions; it is not my business.

Q. Was Mr. Carr laid off from work at Spring Valley?

A. Yes, sir.

Q. Do you remember when he was laid off? A. I think in February or March.

Q. Do you remember why he was laid off? A. Was no work; we laid off a lot of people; there was no business, it went down and down and down, there was no work to do.

* * * * *

Q. Was he laid off because he joined the union? A. No; because there was no work to do. I laid off, as a matter of fact, three people in the same week.

Q. Do you remember who these three people were?

A. Yes.

Q. Who were they? A. Hurley Williams, was Elisha Carr, and Ben Everhardt.

* * * * *

346 Q. How long had you known Mr. Carr? A. I know him the day I come on the job.

347 Q. When was that? A. January '73; because I was in Nyack. Later I finished in Nyack, so I was transferred to Spring Valley.

Q. In January of '73? A. Yes.

Q. Did you have occasion to discuss with him just how long his job might be there at the company? A. I never discussed with nobody business, because I'm a worker myself. What I have to discuss with him? I tell him to go home, that is my business, I don't ask questions.

Q. But you did tell him he was laid off? A. I just tell you that I laid him off, not only him, I laid off him and Hurley Williams at the same time, and a week before I laid off Ben Everhardt. There were three; they worked together.

* * * * *

The question was: Did you keep two newly hired people while you were letting these other people go?

THE WITNESS: I do not recall this.

348

Q. (By Mr. Banks) Did you have a conversation with Mr. Carr regarding his signing a union card? A. No, never.

Q. Did you ever talk to him at all, other than telling him what to do? A. Just what to do, and I don't talk.

Q. You never had any friendly conversations with him?
A. No.

Q. The only thing you ever said to him was to point to some job that he was suppose to do? A. That's right.

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JUDGE BARBAN: Mr. Bleiberg, how did it happen that you went from Spring Valley Gardens to Sleepy Hollow Gardens; did someone else tell you to go to work at one place or the other?

THE WITNESS: That's right.

JUDGE BARBAN: Who told you?

THE WITNESS: The management.

JUDGE BARBAN: Who specifically?

THE WITNESS: From Woodridge, the main office. I will be going on another job next week.

JUDGE BARBAN: Do you remember who told you?

THE WITNESS: I couldn't recall who it was. I said somebody from Woodridge from the plant office; they let me know I will be transferred to the other job.

* * * * *

Q. (By Mr. Banks) You indicated, Mr. Bleiberg, that you regarded it all as one company; is that right? A. Yes.

Q. Meaning Spring Valley Gardens and Sleepy Hollow Gardens? A. Sleepy Hollow Gardens and anything under construction that they do is one company, so far as I know.

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351

MARK WIDEMAN

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Q. Please tell us where you live. A. 104 Old Nyack Turnpike, Spring Valley, New York.

Q. Who are you presently employed by; what is the nature of your occupation? A. I'm employed by Amshu Associates, I'm the vice-president of Amshu Associates.

Q. Is Amshu Associates presently constructing some apartments? A. It is.

Q. Is Sleepy Hollow Gardens a property of Amshu? A. It was; it is presently the property of Kennedy Realty Company.

Q. Is Kennedy Realty Company a subsidiary or property of Amshu? A. Kennedy Realty Company is a partnership, and Amshu Associates is a corporation.

Q. Do the same partners or do the same people that are the partners in Kennedy Realty, are they shareholders in Amshu?

A. Yes; but this is in addition to Kennedy Realty we have David Halpern. Kennedy Realty Company was not a shareholder in Amshu Associates.

Q. When did the construction on Sleepy Hollow Gardens start? A. The construction of Sleepy Hollow Gardens started some time in '72.

353

Q. When was the first apartment ready for occupancy there? A. The first apartment was ready for occupancy in '73, September or October, as far as I can recall.

Q. Did there come a time when you hired a superintendent for Sleepy Hollow Gardens? A. I did not hire him, Dave Halpern hired him.

Q. But there was a superintendent hired for Sleepy Hollow Gardens? A. Yes.

Q. Who was that superintendent? A. The superintendent was Tom Hopkins.

Q. When did Mr. Hopkins start as superintendent in Sleepy Hollow Gardens? A. He started in the beginning of September of '73.

Q. Could you describe the job that Mr. Hopkins was suppose to have? A. Well, he was hired as a resident superintendent, with the intention of living on the job and covering the job for 24 hours a day, 6 days a week. Not working 24 hours, but covering the job 24 hours a day, 6 days a week.

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356

Q. You say you first went into the apartment a few weeks after Mr. Hopkins began working? A. Yes.

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Q. Could you please describe the condition of the apartment at that time, what you saw in terms of furniture, and any other items that were in the apartment? A. In the living room there was a bed, like a cot type bed, bridge table, a couple of chairs, a portable television set sitting on a little table. That is in the beginning; later on there was -- he brought in a beaten old big desk; it was standing right next to the patio door. He kept some tools on it.

The kitchen, no furniture; the bedroom, absolutely no furniture.

Q. How about the family rec room? A. No furniture.

Q. Was anything other than furniture in these rooms when you went there the first time? A. There was quite a bit of tools and supplies.

Q. Would you describe the supplies as best you recollect them? A. There were paint cans; in the bedroom he had supplies like accessories for toilets, toilet seats, tools, all kinds of tools; he had his own tools, too. And basically that is what was in there, different variations of tools and supplies.

Q. Did the condition of the apartment ever change from the time that you first went in it, until the time that you last saw it?

A. Yes.

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358

Q. (By Mr. Kruse) Could you describe the change that you saw? A. Yes; when we took the pictures there was an additional bed brought in, plus a bed and a couple of pictures were on the wall, they were never there. There was a coffee table that was never there; a couple of chairs, they were never there, until the time Mr. Hopkins was fired.

At the time we took the pictures they were there, the bedroom was still vacant, and the --

Q. Did you ever see a bedroom set in the bedroom?

A. At no time.

Q. Did you ever see any furniture at any time during the period that he was employed as superintendent, in the rec room?

A. I never seen any furniture at all.

Q. I direct your attention to the pictures; would you look at exhibit 1; do you know where that picture was taken? A. That picture was taken in the bedroom.

Q. There seems to be a piece of furniture of some kind in that picture? A. Yes; this was like a table and two horses, a piece of plywood on it with tools on it.

Q. Was that table, as you described it, there prior to the time you took the pictures? A. Yes; it was there all the time.

Q. When did that first appear in the bedroom, to the best of your recollection. A. To the best of my recollection, right at the beginning when he moved in, I would say a few weeks after.

Q. I direct your attention to exhibit number 2. A. Exhibit number 2 is a different view of the same table in the same bedroom.

Q. Was there any other furniture in that bedroom that you can recollect? A. No, there was never any furniture at all.

Q. Was there ever a regular bedroom set in there? A. There was never a regular bedroom set in there, at no time.

Q. Does the portion of the bedroom shown in those pictures represent the conditions substantially as it was during the period that Mr. Hopkins lived there? A. I would say yes.

Q. Was there any significant change that you can recollect?

A. No.

Q. Was there any change that you can recollect in the conditions shown in the area of those pictures? A. The only change

360 I can recollect is there were additional supplies, basically in the closets, and on the floor in the bedroom.

Q. Which pictures contain that? A. Exhibit Number 1. At the time I was there, they were in the closets and thrown on the floor, boxes with different supplies and accessories.

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361 Q. * * * Do you know why Mr. Hopkins kept all of his gear in

362 his apartment? A. At the beginning when he was first hired, we didn't have a workshop, but around December or January we provided him with a workshop. We installed a workshop for him, but apparently he did it for his own convenience, to have the tools handy next to him. There was a lot of his own tools, and maybe he wanted to keep an eye on them.

Q. Were there storage areas other than his apartment that were available? A. There was storage area available, a lot of storage areas.

Q. Were there other apartments that would have been available? A. If necessary, there would have been available, if he had chosen to, there would have been available.

Q. Did Mr. Hopkins ever come to you and request a workshop? A. He did request a workshop, and he got one.

Q. When was that? A. I would say maybe around November or December, something like that.

Q. Where was that workshop located? A. The workshop that we provided for him was in Building Number 4 in the garage.

363

Q. Do you know approximately how large that area was?

A. It consisted of two garages; I would say 40 by 20 feet total area.

Q. Did Mr. Hopkins continue to keep items such as toilet seats or bulbs or any other gear in his apartment? A. Some he did, and some he didn't, some he brought into the workshop.

Q. After the time that he got the garage, did the furniture situation in his apartment change? A. Not at all.

Q. Did there come a time when you questioned Mr. Hopkins about his wife moving in? A. On numerous times.

Q. When was the first one that you can recall? A. Maybe two or three weeks after he was hired.

Q. Could you please tell us what the nature of that conversation was? A. I asked him when his wife would move in. He told me he has a house in Yonkers and he was in the process of selling the house, and very shortly, as soon as the house could be sold, she would be moving in.

Q. Did you have any conversations with him thereafter about his wife moving in? A. Quite a few times, a number of times.

364

Q. During any of the conversations that you had with Mr. Hopkins about his wife moving in, did he ever tell you that she, in fact, was moved in? A. He never said so, because she wasn't there. As a matter of fact, at one time at a later date said he got so disgusted with the fact that she was not moving in, he said he would take his clothes and bring them in to threaten her to move in the apartment.

Q. Did you discuss with him the moving in again at any time after the first couple of weeks? A. Yes, I did.

Q. When was the next occasion that you can recollect? A. Around November or December I asked him again about moving

in, and he said to me, "The deal went through with the potential buyer." And his son, his name is Tom, he introduced me to Tom, and he told me Tom was with his wife and that his son was buying the house. And that was going on for a number of weeks. I said, "Fine, sell it to your son." Then nothing happened again. Then around January or so '74, that was the time he hoped his wife would move in, because he was going to sell the house to the son, but nothing happened. Then he told me some time later that his wife went to Florida to rent or sell a house they owned in Florida; "Once she does that, then she will move in." Then nothing happened.

365

Q. About when was that? A. I would say that was in maybe January or February of '74, around that time.

Q. Were there any other discussions or did you ask him, at any time after this conversation, whether his wife had returned from Florida? A. Many times I asked him when is his wife moving in, and he always gave me delaying tactics.

Q. When you say delaying tactics, were there any other excuses that you can recollect, or stories he gave you? A. She didn't want to move in, she did work for her son, and she was a business lady; she was doing this and that, and in fact, she never moved in.

Q. Now as far as Mr. Hopkins' availability, did you ever attempt to reach Mr. Hopkins in the evening? A. Yes.

Q. Could you tell us approximately how many times you attempted to reach Mr. Hopkins in the evening. A. I attempted to reach him many times, many times he wasn't there, a few times I found him in his apartment.

Q. As I understand it, he was employed from approximately September thru July, some time in July was it? A. Yes.

Q. During that time, which is a period of around nine months, approximately how many times did you attempt to reach Mr. Hopkins in the evening; could you give us an estimate? A. I would say at least once a week or twice a week; at least once a week.

366

Q. Did you ever meet Mrs. Hopkins at the premises? A. I met Mrs. Hopkins, I believe I saw her -- I don't recollect that. I saw her once when they came for an interview, and once I saw her -- I remember there was an alarm that went off that day, a fire alarm went off that day, and she came for a visit. I came there because I was alerted by Mr. Halpern, and I saw her there; that was the only time I saw her.

Q. Where is your house located with reference to the apartment complex? A. My house is located along side the building, I would say from my house to his house is, I would say, maybe no more than 150 feet, or about 120 feet.

Q. Going in and standing in your backyard and looking at the apartment complex, would some of the apartments continue off to the left, and some of the apartments continue off to the right? A. Yes, I would have to look from the rear part of my house to see that building.

Q. Could you see the front or the rear of the building? A. I would see the side of the front entrance to Mr. Hopkins' apartment.

367

Q. You say you saw Mrs. Hopkins approximately twice during this period? A. Once, if I remember correctly, that was the time during the fire alarm that went off during the day; and I think I saw her once during the interview.

Q. Did you ever have any problem as far as Mr. Hopkins' availability at night? A. Yes, many times I couldn't reach him. If I couldn't reach him in his house -- a few times there was some problems, I went in to see him and check out his whereabouts, and I reached him at his Yonkers address.

Q. Would you say you called him frequently at the Yonkers address, or seldom? A. I called him, I would say, a dozen times at least.

Q. At the time that you called him in Yonders, were you able to reach him there? A. Most of the time, yes.

Q. Were these in the evening or in the day time? A. In the evening.

Q. Were these in the evenings at various times of the week, or were they always on a Saturday or on a Friday? A. They varied, I have no recollection of what days it was particularly, I know a number of times I called and found him there.

Q. When you say you found him there, where did you find him? A. In his apartment in Yonkers, in his house.

Q. Did there ever come a time that any complaints were received from the Building Department? A. Yes.

Q. Will you tell us about that? A. Yes. About May of '74, approximately, I received a complaint from the Building Department that various tenants are calling the Building Department complaining that the resident superintendent was not available.

Q. Did there come a time when an advertisement was placed in the newspaper for a resident engineer for Sleepy Hollow Gardens? A. It was in the spring of '74.

Q. Did you place this ad, or was it placed by someone else? A. I think I did not place it myself, Dave Halpern must have placed it.

Q. Are you familiar with the invoice record that was received in reference to this placing of an ad? A. Yes.

Q. I show you this copy of a bill for an advertisement; do you recognize that (handing)? A. Yes.

369 Q. Would you please tell us what that is? A. This is a copy of an invoice for an ad placed in the Westchester Rockland newspaper, for a superintendent. It is marked paid, and it has the check number too.

Q. Did Amshu have another apartment complex at this time? A. You mean for a superintendent?

Q. Well, did they own another apartment complex in which they employed a superintendent? A. Yes.

Q. Where was that? A. Highrise.

Q. Does the highrise have a name? A. Country Village Towers.

Q. That is in the same area as Sleepy Hollow Gardens? A. Basically it is, yes.

Q. Was there a superintendent employed at that complex then? A. Yes.

Q. Country Village Towers? A. Yes; he is still employed.

Q. Do you know when he was first employed? A. He was first employed in January of '74.

Q. Do you know his name? A. Yes.

Q. What is his name? A. Felix Vargas.

370 Q. So that this ad was placed -- could you tell us the date that the ad was placed? A. According to the invoice, the expiration date was March 28, 1974.

Q. Do you know how many days running was the ad to run? A. The number of times it was running -- it says here "six times."

JUDGE BARBAN: What is that question?

Q. Was that the ad that the Serurs responded to, do you know? A. Probably, I cannot really answer that question for sure.

* * * * *

Q. I show you this copy of a bill; it is not the original, but the original can be brought in if there is a question on this (handing).

JUDGE BARBAN: My question is, very simply, it seems to me that we had some discussion about this previously, and I suggested that the best evidence on this issue would be the ad. There has been an extensive recess and apparently you don't have the ad.

MR. KRUSE: I thought you wanted the billing on this.

JUDGE BARBAN: May I see the billing?

I don't know that the billing proves anything at all, Mr. Kruse.

371

MR. KRUSE: Well, it says, "Superintendent," on it, and it says Amshu Associates, and where the office is located.

JUDGE BARBAN: I would suggest to you that with this witness' testimony, and this piece of paper, you are not proving anything other than the fact that some advertisement was apparently placed in this newspaper.

MR. KRUSE: Well, we will bring a copy of the ad then. Fine.

JUDGE BARBAN: The witness testified, if I heard him correctly, that he didn't have anything to do with putting the ad in the paper, that was done by Mr. Halpern. That piece of paper that you have just offered makes no reference to the contents of the ad.

I don't know what we are trying to prove here.

MR. KRUSE: We have the invoice for an advertisement of five lines that was placed for a superintendent, for a superintendent by Amshu Associates. The expiration of which was --

JUDGE BARBAN: Mr. Kruse, would you agree with me that that piece of paper does not say what you just said, it merely has a word "Superintendent," on it; that is all it says?

MR. KRUSE: It says expiration, and it is dated 3/28/74, Number 9B28, the first word being classified, that is the first word, and then there is "Superintendent."

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JUDGE BARBAN: Are you offering the piece of paper?

MR. KRUSE: Yes, I am.

JUDGE BARBAN: Mr. Banks, any objection?

MR. BANKS: Yes.

JUDGE BARBAN: What is your objection?

MR. BANKS: It is irrelevant and immaterial; we are not concerned in this proceeding as to whether or not Amshu pays its bills for either advertisement or anything else. The pertinent issue, as I understand what the issues --

JUDGE BARBAN: Do you dispute the fact that this is an authentic receipt for a paid bill for an advertisement in this paper?

MR. BANKS: Yes. It is not an original, and the best evidence would be the original bill itself, if there were such.

All, even the original would prove, would be merely that there was a bill. Now its relationship to this case, and to the superintendent would be entirely --

JUDGE BARBAN: I am not going to comment on this any more.

Are you still holding to your objection that you want the original receipt brought in?

MR. BANKS: Yes. I would want the original ad brought into establish what the ad said.

JUDGE BARBAN: That is not what I asked you.

373

Mr. Kruse, counsel is correct, technically, in asking for the original. Is it available?

MR. KRUSE: If he wants the original brought in, we will bring it in.

JUDGE BARBAN: Now with respect to the document, just so everybody will understand what I think it shows, if it is received I will receive it only for the purpose of showing that the company paid

a bill, which was tendered to the company by that newspaper on that date, and for the things specifically stated on that piece of paper. And beyond that, I am not going to pass, except on the whole record.

Now if you still want it in, you will have to bring the original.

MR. KRUSE: Okay, fine. We will bring in our copy of it. We didn't have a copy of the ad, but I'm sure we can get a copy.

Q. (By Mr. Kruse) Did there come a time when you had a discussion with a union representative in reference to Mr. Hopkins having joined the union? A. Yes.

Q. Do you recollect when that conversation took place?

A. That was in June '74. I gave him the position June 19, but it was apparently a few days after, and we were on a matter at the State Labor Relations Board on a different matter, and Mr. Childress

374 from Local 32 E, came over to me in your presence, Mr. Kruse presence, and he told me, "you know, Mr. Tom Hopkins signed up with Local 32 E." I said, "Tom Hopkins is not a resident superintendent; he doesn't reside there, and we have already made arrangements to replace him. I have interviewed people and made arrangements to replace him and that is it." So he went outside, and I believe he made a phone call; he came back and he said to me, in the presence of Mr. Kruse, "It is true, he admits he doesn't reside there, but don't fire him." I said, "I'm very sorry, the arrangements were made already, and he will have to go." That is all I can recollect of that conversation.

JUDGE BARBAN: Just a moment, Mr. Kruse. I am concerned about this last statement.

Are you relying on the hearsay testimony as to what this union representative told Mr. Wideman about what Mr. Hopkins is suppose to have told him?

MR. KRUSE: We are stating a conversation that took place, not for the truth or the falsity of whether or not Mr. Hopkins resided at the apartment, but for the purpose of showing that as far as Mr. Wideman was concerned, a situation existed.

JUDGE BARBAN: Thank you.

You are adducing it to prove the contents of the conversation, not the proof of it.

* * * * *

375 Q. (By Mr. Kruse) Did you have a conversation thereafter with Mr. Hopkins at anytime? A. Well, I did not speak to Mr. Hopkins; I was very cautiously avoiding him after I found out from Mr. Childress that he had tried the union. I completely avoided the subject with Mr. Hopkins; I never discussed it with him.

Q. Did you discuss it with me? After you had a conversation with Mr. Childress in my presence, did you discuss it with me as far as what the implications of firing Mr. Hopkins were? A. Yes, I discussed it with you.

Q. What did I tell you? A. I said, "There may be a problem in firing him." And you said to me, "If you have a cause to fire him, you can fire him."

Q. Did you speak to Mr. Hopkins thereafter, after the conversation with Mr. Childress? A. Well, that was the time I had already interviewed Mr. Weissman, and I had already arranged for him to come to work. I really didn't want to go into any details with Mr. Hopkins at all on this subject.

Q. Did you have a conversation with him? A. I had different conversations.

376

My recollection is he testified to a conversation with you, in which you discussed the union with him. A. That is not true, that is an utter lie.

Q. Well, about how many conversations did you have with him, from the time you talked with Mr. Childress, to the time that you notified him that he was fired from the complex. A. Well, maybe two or three times. I tried to avoid him really, at the time.

Q. When was the first conversation that you can recollect? A. Usually, I was meeting him outdoors; either outdoors, or I used to pick up my car in the garage, which was alongside his workshop. These are the two places I used to meet him in the morning. During the course of the day sometimes I use to come to the job, and I use to meet him during the day.

Q. In any conversations that you had with him between the time that you spoke with Mr. Childress at the New York State Labor Board, and the time that he was discharged, did you discuss the union with him, or his union activities? A. Not at all.

Q. Did you ever tell him that he was fired because he had joined the union? A. No, I told him he was being fired because he did not fulfill his obligation as the resident superintendent, by not residing at the apartment.

377

Q. Do you recollect when it was that you interviewed Mr. Weissman for the job? A. Mr. Weissman -- I think I interviewed him the early part of June; I would say the second week of June, two or three weeks -- June the 10th, I believe it was.

Q. Where did you interview him, do you recollect? A. I interviewed him in my office.

Q. Did you confirm his hiring then, or did you confirm it later, or do you recollect? A. He couldn't take the job immediately,

because he was working on a different place, and he said, as far as I can recall, before the end of June he wouldn't be available. And he started to work for us July 1.

Q. Did you have any reason not to notify Mr. Hopkins of his discharge before you got somebody on board? A. Yes; I had many reasons. The first and most important reason was that if he was aware that he was being discharged, he would have been very uncooperative with the man who was going to replace him. And he was told that he was going to be his helper.

Q. When did you finally hire Mr. Weissman? A. He started on July 1.

378 Q. But when did you finally tell him that he was, in fact, hired; do you recollect? A. I don't know the exact date. It was in June, June 10, June 15, something like that.

Q. Did Mr. Hopkins ever request any assistance to help him on the job because it was too much? A. Yes; he requested it, and he got it.

Q. Who did you assign to help him? A. Well, he was assigned, as I said before in testimony, and assisted by Thomas Dobutovic, who was his helper, and who was working with him in the beginning when there were very few tenants. And it was one or two days a week, until he was almost working full time with Mr. Hopkins.

Q. When you say he was almost working full time, when did this take place? A. You see, at the beginning when Mr. Hopkins started to work there, there were no tenants starting to move in until the end of a year; there was a negligible amount of tenants. So Mr. Hopkins was in a very good position to help himself. I would say it was towards the end of the year, or either December or January that he requested help, and Mr. Dobutovic was assigned to him. It was

either January let's say -- I don't recall exactly the date, but it was in the early winter of '74 that Mr. Dobutovic was assigned to him, to work for him.

379

Q. In his testimony, Mr. Hopkins testified to a conversation with you in your garage around the 28th of June at about 8:30 in the morning. A: I heard that testimony, and I was shrugging my shoulders; that conversation never took place.

Q. Did you ever say to him, "I see you joined the goddamn union." A. That is not true. I never said anything of that kind.

Q. Did you ever say to him that he wouldn't be around here very long, in reference to this same conversation? A. I never did, I didn't say that at all.

Q. Did you ever tell him that you would find some way to get rid of him? A. I didn't say that.

Q. A comment that you will find some way to get rid of him, would that comment have been appropriate on June 28, 1974?

A. Definitely not.

Q. Why not? A. First of all, I did not want to get involved in the processing of discharging Mr. Hopkins. I did not involve myself at all in it. I did not want to discharge him personally; I did not discharge him. It was Mr. William Leflein that discharged him. I wasn't even there when he was discharged. There was a letter sent to him for discharge; I didn't even sign the letter, Mr. Leflein signed the letter to him.

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Q. Had you, in fact, already made up your mind to get rid of Mr. Hopkins by June 28? A. Yes, we had decided to replace him after these complaints from the Building Department kept coming, and it put us in a very bad spot, the authorities.

Q. Did you determine from the records -- A. And I told him so.

Q. Did you determine from the records whether Mr. Hopkins received a raise? A. He received a raise sometime before Christmas, around Christmas time '73.

Q. Do you remember how much of a raise he received?
A. It was a \$10 raise.

Q. Do you remember how much a week he was receiving at that time? A. Before the increase?

Q. Well, before the increase. A. Before the increase he was receiving \$110; with the increase it was \$120.

Q. Did you have any conversations with Lea Serur, or her husband in reference to a job? A. Yes; I interviewed them the beginning of June, but on a Sunday. I don't know the exact date, but it was the early part of June, the beginning of June of '74. I'm sure it was the first week of June. And they came to my house on a Sunday

381 him and his wife, and I believe his mother-in-law and his child. And I interviewed them, and they told me they were not available -- they could not be available until the end of the month, because they were going away on a trip to Canada. I also recall now that they mentioned to me that a child was going to a Hebrew school in the local area, and they couldn't take him out of school before the actual school year. So they couldn't take the job before then.

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382 Q. Was there ever any point at which Mr. Dobutovic was receiving orders or instructions from Mr. Hopkins? A. Yes, quite often.

Q. Did he work with him very much? A. Quite a bit.

Q. When you say quite a bit, would you describe to us how much he did, in fact, work with him? A. There were times that he was working constantly for him; there were times that he was

working a couple of days on construction, two or three days working for him. But he was getting busy, and he was constantly working for him.

Q. Over how long a period did this last? A. For months, for a number of months.

Q. From when to approximately when? A. He was working for him from the early part of the winter until the time he was discharged.

Q. In your conversations with Mr. Hopkins, was there any possibility that Mr. Hopkins, from his conversations with you and your conversations with him, that Mr. Hopkins believed that his wife was not suppose to be living at the complex with him, or that

383 he didn't understand that she should be living there? A. Never.

Q. Did you make any statement directly affirming the fact that he understood that she was supposed to be living there?

A. He knew she was suppose to be living there, he was just postponing it constantly with different excuses.

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384 JUDGE BARBAN: On the record.

Mr. Banks, you want to proceed?

MR. BANKS: Yes.

CROSS EXAMINATION

Q. (By Mr. Banks) Mr. Wideman, I believe you stated that you didn't actually hire Mr. Hopkins; is that correct? A. Pardon?

Q. You didn't actually hire Mr. Hopkins; is that right?

A. The actual hiring I didn't do.

Q. What did you do with respect to his hiring, if anything.

A. To answer your question, I didn't do the actual hiring, Dave Halpern did the hiring.

Q. The reason I asked that is because you say you didn't do the actual hiring; I was trying to find out if you did anything in that area. In other words, the preliminary work, or anything, that is what I had reference to. A. No.

Q. When would you say he started work there? A. In September, the beginning of September '73.

Q. How long was it after he started before you actually went into the apartment where he was located? A. A couple of weeks, two or three weeks.

Q. Would that have been still in the month of September?

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A. That should have been in September, the beginning of October. The end of September, within that area; it's hard to recollect exactly the dates.

Q. Did you live on the premises, Mr. Wideman? A. I still do live there.

Q. How close do you live to Mr. Hopkins' apartment?

A. I live in a private house, which is located within the development about -- if my measurements are correct, I would say within 150 feet of the entrance to his apartment.

Q. I think you testified that you visited Mr. Hopkins' apartment quite frequently; is that right? A. I visited quite a few times.

Q. Were these visits during the regular day, or were they in the afternoon? A. I saw him a few times in the day, and a few times I saw him in the evening.

Q. That is all of the times that you saw him? A. Pardon?

Q. A few times? A. In the apartment itself?

Q. Yes. A. I would say I was in the apartment itself a few times in the morning, maybe a half a dozen times in the evening.

Q. During all your visits there, did you ever meet Mrs.

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Hopkins? A. I never saw Mrs. Hopkins.

Q. Is it your contention that Mrs. Hopkins didn't live on the premises? A. It is my very firm contention.

Q. This is based on those few visits that you had there during the day or -- A. This is not only based on the visits.

Q. What else would it be based on? A. This is also based on conversations that I had with Mr. Hopkins, when I urged him that his wife should move in, and he kept on giving me constant delaying tactics that she could not move in. He was always saying she could not move in for this and that reason.

Q. When was the last conversation you had with Mr. Hopkins regarding Mrs. Hopkins moving in the place? A. The last time was in the spring.

Q. So are you saying, then, that Mr. Hopkins stated that his wife was not living there in the spring of 1974? A. That's right.

Q. I believe you stated that Mr. David Halpern is the only one who actually hired Mr. Hopkins? A. Yes.

Q. I believe you stated that Mr. David Halpern is the only one who actually hired Mr. Hopkins? A. Yes.

Q. Was he Mr. Hopkins immediate superior? A. He was his superior as long as he was there.

387 Q. As long as he was actually in the job there? A. Yes.

Q. Do you know whether or not your son visited Mr. Hopkins' apartment? A. My son visited him a few times too, yes.

Q. A few times? A. Yes.

Q. About how many times would you say a few is?
A. Maybe a half dozen times, a few times.

Q. Wasn't it actually a fact, Mr. Wideman, that your son was a frequent visitor? A. I didn't say he was a frequent visitor.

Q. I am asking you, if that wasn't a fact. A. Not a frequent visitor.

Q. Didn't he come over to visit with Mr. Hopkins and watch television? A. I don't know, I wasn't there with him, in answer to your question.

Q. You stated that Mr. Hopkins had stored on the premises -- A. Pardon me. As far as my son is concerned, he is a student. If it was necessary for him to be a visitor here, if you would like him as your witness, I will make an effort to bring him down here.

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388 Q. (By Mr. Banks) You visited Mr. Hopkins' apartment, as you have indicated, a few times in the day and a few times in the evening, and you gave a description of what you saw in the apartment while you were there. A. A very exact description.

Q. What did you see in the apartment the first time you went there, and when was that first time? A. That first time was in the beginning when he moved in, and when he started working. It was like two or three weeks after he started working, about. I saw the same thing as far as furniture is concerned, it never changed until the time he was discharged.

The first time I saw a bed, a cot type of bed in the living room; a bridge table, a couple of chairs, a small portable television set with a little stand, and this television standing on it. And he also had, after a couple of months, after he moved in, he brought in a beaten
389 up old big desk that was standing by the patio door to the right, with some tools on it in the living room. That was the entire furniture in the living room throughout his employment.

Q. Mr. Wideman, did you ever visit Mr. Hopkins in any other place other than that apartment? A. I don't understand the question. In his house in Yonkers?

Q. His house or any place else that was his domain.

A. No.

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Q. (By Mr. Banks) Do you know whether or not the furniture you saw in Mr. Hopkins' apartment was the furniture that he normally used at his domain? A. That is the furniture that he used in this particular apartment, what he would normally use, I have no way of knowing.

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Q. (By Mr. Banks) I believe that you testified that you also saw in the apartment various materials; would you tell me what materials you saw in the apartment? A. A whole variety of materials; it was paint, and there were tools, and there were accessories and different types of accessories for apartments.

Q. In other words, the equipment that he normally used in the performance of his duties as the superintendent there on the premises; is that right? A. Well, he was using the equipment whenever it was there.

Q. Was he using them for his own personal use? A. He was not using them for his own personal use.

391 Q. So then they were materials that he used in the performance of his duties on the premises? A. Yes.

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Q. (By Mr. Banks) Mr. Wideman, you testified that Mr. Hopkins requested and received assistance in the performance of his duties? A. Pardon me? I didn't hear you.

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Q. I say, you had testified that Mr. Hopkins requested and did, in fact, receive assistance in the performance of his duties as superintendent? A. In existence?

Q. Assistance? A. Yes, I'm sorry.

Q. Do you remember when he made the request? A. It could have been December or January.

Q. Do you remember when he received such assistance? A. About that time.

Q. Wasn't it a fact that he didn't receive that assistance until the last two months he was employed, that is to say, June, May and June? A. No.

Q. Did he have the same assistance all the time? A. Yes.

Q. The question that I attempted to -- A. Except in July when we hired Simon Weissman, who is our present superintendent; he became his assistant.

Q. That was on July 1, did you say? A. He started working July 1.

398 Q. Mr. Hopkins discharge letter was issued on July; is that right? A. I don't remember the date, I think it is in evidence.

Q. Do you remember when he was discharged, what date he was discharged? A. He was discharged in July, I would say the middle of July or the third week of July.

Q. The third week of July? A. Something like that, the second or third week of July.

Q. I show you now, General Counsel's Exhibit 2 and ask you if you can identify (handing)? A. Yes; he was relieved July 22, 1974.

Q. And the discharge letter went out on what date? A. Went out on July 8.

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403 Q. (By Mr. Banks) Now you had testified earlier that you, or the company, advertised in an advertisement in the newspaper for a superintendent; is that right? A. Yes.

Q. Do you remember the approximate date? A. I did not place the ad myself, but I saw the invoice, and it showed March, 1974, the end of March 1974.

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405 Q. Where was your office located? A. Down the road.

Q. By down the road, was that on the premises, or off the premises? A. It was off the premises actually, but it's, like by car, a minute, two minutes.

Q. What other property did you oversee, or have any connection with the operation of in addition to Sleepy Hollow Gardens?

A. Well, we were building a condominium, Country Village; alongside Sleepy Hollow Gardens we were building highrise apartments. Then a couple of miles away, Spring Valley Gardens.

Q. Did your duties require that you spend any time in New Jersey in the main office? A. Once a week on Thursday, every Thursday in New Jersey.

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409 Q. You had indicated that at least, according to the ad, that you had been trying to obtain the services of a superintendent for quite sometime, because you were dissatisfied with Mr. Hopkins. A. There was an ad placed some time in March.

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410 Q. (By Mr. Banks) All of the other places that you mentioned that are operated by the company, that is, Spring Valley

Gardens, you have a superintendent there; is that right?

A. Yes.

Q. The highrise, is it open now? A. Yes.

Q. You have a superintendent there? A. Yes.

Q. But it took you until July 1 to find a superintendent for Sleepy Hollow Gardens? A. Not July 1; we actually hired him the beginning of June, June 10, I believe. I interviewed -- first it was

411 Mr. and Mrs. Serur, and they were unavailable, and I interviewed Mr. Weissman. He didn't come through an ad, he was recommended to us through Woodridge, through New Jersey. And he was interviewed prior to my interview, with Mr. Halpern, and that is when we hired him.

Q. You had your conversation with Mr. Childress on June 24? A. That's right.

Q. And the company sent out its letter discharging Mr. Hopkins on the 8th of July? A. That's right.

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413 Q. You heard some tenants testify about problems that they had with the boiler system? A. They had problems, I don't know what kind of problems. They testified that they called the building department; they had problems and there was no coverage, and the building inspector told me that he received these calls from tenants.

Q. You were in here when the tenants testified about assisting Mr. Hopkins with the boiler? A. I was here; two tenants testified, two or three tenants testified.

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415 Q. (By Mr. Banks) Do you know of any major fires occurring on the premises? A. There was no fire at all.

Q. Do you know any other of the either city or emergency services that had to come on the premises during the night?

A. I have no recollection.

Q. Do you keep a file on complaints made by tenants regarding the superintendent? A. Well, I don't personally keep a file on complaints.

Q Does the company keep a file? A. I didn't say that. Occasionally, tenants write to the main office with complaints, and most of the complaints are being handled either verbally, or over the phone.

Q. Are the complaints of tenants anything unusual, not just at Sleepy Hollow Gardens, but -- how long have you been connected with operating the housing developments like this? A. When there is a problem in the apartment, there is a complaint of a tenant.

Q. That wasn't my question. A. That is my answer.

* * * * *

Q. Did you ever say who made the determination to discharge Mr. Hopkins? A. Well, when the complaints come from the -- the final decision was made in May when Mr. Long, the Building Inspector of Spring Valley, complained to me personally, that this thing is getting out of hand; the tenants are complaining to the building department that there was no coverage. And I told Mr. Hopkins how I felt about it, and I was pretty firm about it, and he got the message.

Q. What did you tell him? A. I told him that this could not go on anymore like this, that he has to reside there, he has to live there; we cannot stand the complaints of having the building department on our back.

Q. That was in May, did you say? A. That was around May.

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JUDGE BARBAN: Now you said something about talking to Mr. Hopkins after the decision was made.

THE WITNESS: I spoke to Mr. Hopkins after I received the complaints from the building department.

JUDGE BARBAN: Did you talk to him after the decision was made?

THE WITNESS: After the decision was made, I spoke to him, also.

JUDGE BARBAN: I would like you to tell me what was said in that conversation with Mr. Hopkins.

THE WITNESS: What I said to Mr. Hopkins I can't recall. First of all, I repeated to him the complaints I was getting from the building department.

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JUDGE BARBAN: Now wait a moment. When I ask what was said, I want to know what you said, and what he said in as much detail as you can presently remember.

THE WITNESS: What I can remember is that I told him that this situation could not go on anymore; we cannot stand these complaints from the building department, not being covered, and getting these complaints from these tenants who are harassing the building department, and this was getting to be a problem, and this is no good, it cannot go on like this.

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JUDGE BARBAN: Another thing that is very vague to me is the time involved here. Could you list for me as well as you can remember -- maybe it's impossible, I don't know. I am asking you for a better memory than I probably have. I'm asking you, if you

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can remember the complaints you received concerning Mr. Hopkins, who made them, and what the complaints were, and when they occurred?

THE WITNESS: Well, the complaints never came directly to me. I don't remember the names and I never knew the names of the tenants; I don't remember the names of the tenants.

JUDGE BARBAN: Let's go to the Building Inspector; were these complaints that were made to Mr. Halpern, concerning which he has testified, or were they made to you personally?

THE WITNESS: To me personally there were no complaints made. They were made to Mr. Halpern, or to the building department.

JUDGE BARBAN: And what you are telling me is that all of your testimony concerning complaints by the building department were not made to you at all?

THE WITNESS: As I said before, the tenants have no access to me.

JUDGE BARBAN: No, no. From the building department; were those complaints made to you personally, or were you told about them by someone else?

THE WITNESS: From the building department to me personally.

JUDGE BARBAN: That is what I am interested in. Do you remember when you first got some complaints?

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THE WITNESS: From what I remember, it was sometime in May.

JUDGE BARBAN: The first one you got was sometime in May?

THE WITNESS: From the building department.

JUDGE BARBAN: And are we talking about a state institution or a local institution?

THE WITNESS: A local institution.

JUDGE BARBAN: Do you remember what the complaint was to you?

THE WITNESS: I don't remember the specific complaint.

JUDGE BARBAN: We are talking about the one in May, the first one.

THE WITNESS: There was not one complaint, the Building Inspector told me there were various complaints that this job is not covered, there is nobody there to answer the phone.

JUDGE BARBAN: Is that what he told you?

THE WITNESS: That is what he told me.

JUDGE BARBAN: And nothing else?

THE WITNESS: That is what he told me.

JUDGE BARBAN: In other words, I am being specific. Is the only complaint from the Building Inspector that was told to you about the phone not being answered?

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THE WITNESS: He told the tenants complained to the building department that Mr. Hopkins was not available when they needed him; whether they tried to reach him by phone or knocked on the door, I have no way of knowing. They were trying to reach him because they had some complaints and he was not available, that is what the building department told me.

JUDGE BARBAN: Is that the first you became aware of anything of this sort, in May?

THE WITNESS: I heard from Mr. Halpern before also, that he received complaints to his house; the tenants were calling him also about him not being available.

JUDGE BARBAN: Mr. Halpern told you the tenants were calling him?

THE WITNESS: That is correct, sir.

JUDGE BARBAN: Other than this one occasion when you said the Building Inspector called you, were there any other occasions when the Building Inspector called you?

THE WITNESS: Well, there was one occasion I remember, and the Building Inspector -- for me to answer this question a little better, the Building Inspector carries a very big weight.

JUDGE BARBAN: No, no, no. My question was: Do you remember any other occasion when he called you?

THE WITNESS: Maybe there was another occasion, which I don't recall now, there could have been another occasion, too.

425 JUDGE BARBAN: For how long a period did you know that Mr. Hopkins was living in the apartment alone; or to put it another way, because I don't want to make any finding on it, for how long a period were you aware that Mrs. Hopkins was not in the apartment?

THE WITNESS: I was aware from the outset to the end.

JUDGE BARBAN: As I recall, we had some little discussion about this, and I also recall he said it was not expected that Mr. Hopkins be on the premises without any absences at all for seven days a week, 24 hours a day. Can you explain what the understanding is with a resident super as to his time off, or when he can go or where he can go?

THE WITNESS: Well, the resident superintendent, when he resides there -- first of all, he has one day off. It is a six day week. It was not expected of him to work actually more than eight hours a day, except where there are complaints at night, in the evening, to cover the job; to fix them; emergencies.

JUDGE BARBAN: Well, I would like to suggest this to you, because you made dispute what I am thinking, it seems to me that you couldn't reasonably expect that he would be present on the premises at all times for 24 hours for even six days a week.

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THE WITNESS: Well, when I say 24 hours, if he goes away for an hour or two hours or sometimes to the movies or something, that is normal. But usually if a tenant would call and he would not get him at 5:00 or 6:00 or 7:00, or 8:00 or 9:00 and he could not get him at all these hours, that is a sign that the man is not there.

JUDGE BARBAN: I would like to ask you about that, because there are a lot of little vague points in this case. With regard to what you just said, so far as I remember, there isn't any testimony of any occurrence such as you have just stated, of any tenant trying to get Mr. Hopkins, say from 5:00 to 10:00, and wasn't able to get him. I'm putting this to you, because you have mentioned it, and if you have sufficient evidence, I would like to know about it.

THE WITNESS: As far as when the actual complaints were, and when the people tried to reach Mr. Hopkins, exact hours I wouldn't know. Actually, if the building department has the records of it, maybe they would know; I would not be in a position to answer that question.

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JUDGE BARBAN: Sustained.

That is purely hypothetical, Mr. Kruse, I am dealing with things that did happen.

Since you raised it, Mr. Wideman, if you worked for me in one place, so I will know where to look for it, could you tell me now the reason or reasons specifically that you and Mr. Halpern decided to release Mr. Hopkins?

THE WITNESS: The basic reason was that there was a breach of an agreement, the man was supposed to move in with his family, with his wife, he didn't. He was constantly lying to us, and giving us an excuse for long period of time, and he did not fulfill his obligation.

What broke the camel's back sort of speak, was the complaints, coming in from the building department, that we could not go on anymore with this situation.

429 JUDGE BARBAN: It was these two reasons which might be interconnected really, it was these two reasons that you decided to let him go?

THE WITNESS: If his wife would have moved in --

JUDGE BARBAN: No, no. What I am trying to find out in this place is what are the reasons.

THE WITNESS: Those were the two reasons, number 1: There was a breach of the agreement, which was postponed for a long time; the man did not correct it, he did not move in with his wife. He wasn't residing there.

Number 2: The complaints that were coming in from tenants, and he was not available, he was too often absent from the premises. And on many occasions I found him by phone, some occasions, in his resident apartment.

JUDGE BARBAN: Are those all the reasons that you can think of at the moment?

THE WITNESS: Yes.

Q. (By Mr. Kruse) Mr. Wideman, in cross examination you talked about seeing Mr. Hopkins a few times in the day, and a few times at night. Now at those times that you saw him in the day, or in the night, was that each and every time you went to his apartment that you saw him? A. No; it was one out of ten times that I tried to see him in the house that I found him, in the evening especially.

430 Q. Did you go to his apartment on days when you knew he would be off? In other words, on his regular day off? A. On days when I knew he was off I didn't go there, it was during his working days.

Q. There is no question that during your discussions with Mr. Hopkins, that you discussed with him the fact that his wife was not living there? A. I discussed this with him on many occasions.

Q. Was there ever any denial on his part that his wife in fact did not --

MR. BANKS: Objection, leading.

JUDGE BARBAN: That is overruled in this circumstance. Go ahead.

THE WITNESS: I'm sorry, would you rephrase the question?

Q. (By Mr. Kruse) Was there any statement by him, at any time, that his wife, in fact, lived on the premises? A. Never.

Q. When you asked him when his wife was going to move in --

JUDGE BARBAN: Just a moment, let's get away from the leading part, besides which, you are going beyond, I think the cross. If you want to ask the witness what happened, let him respond in his own terms.

Q. (By Mr. Kruse) In conversations that you had with Mr. Hopkins, did you discuss his wife residing at the house? A. I discussed this on many occasions.

431 Q. Could you tell us whether or not he ever told you that she lived on the premises?

JUDGE BARBAN: Just a moment. That was the objection to which I sustained. If you want the witness to tell you what occurred in the conversation, that is one thing, but leading him on a particular answer is another.

MR. KRUSE: In other words, I can't ask a question about a specific area of conversation?

JUDGE BARBAN: Mr. Kruse, you know better.

Q. (By Mr. Kruse) In discussions that you had with Mr. Hopkins, did you discuss his wife? A. I did.

Q. Could you tell us what the discussions, in reference to his wife, were? A. I discussed with him many times as to why his wife would not move in with him.

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437 Q. (By Mr. Kruse) Did you ever have a conversation with Mr. Hopkins concerning the installation of locks on his door?

A. We never had any discussions; he never had any permission to install a lock on this particular door. And I would like to add, to my knowledge, my personal knowledge, and to his admission later on, he installed a number of locks in the apartments, a number of apartments illegally. And he was suppose -- he kept the second keys himself. We have got, now, at the present time, tenants presently residing complaining to the present super that they would like their key.

MR. PANKS: Objection.

THE WITNESS: I would like to finish my statement.

JUDGE BARBAN: All right, I will sustain the objection.

Mr. Wideman, just so you will know, this goes beyond the question, first of all. And secondly: I don't see any basis of relevance to the issues I have to decide, which involve the reasons for Mr. Hopkins' discharge.

As I understand it from you, this was material that you discovered after Mr. Hopkins was discharged?

THE WITNESS: Basically, I discovered it afterwards, and if this was brought to my attention that it was done on such a mass scale, that alone was enough to fire him. The doors are damaged; he had to drill holes in the doors without our permission. Number 2: When
438 he left the apartments, the second lock, and the one for the tenants --

JUDGE BARBAN: Please.

THE WITNESS: Those tenants are complaining to us now at this moment.

MR. BANKS: I ask that the entire statement by the witness be stricken.

JUDGE BARBAN: I know, I am not going to strike it, but I have a reason for not striking it. But I am not interested in letting in these particular matters. Now Mr. Kruse, go ahead, please.

Q. (By Mr. Kruse) Mr. Wideman, to your knowledge, did persons employed by Amshu have permission to go into and out of Mr. Hopkins' apartment? A. Were persons --

Q. Employed by Amshu, did they have permission to go into and out of Mr. Hopkins' apartment?

MR. BANKS: Your Honor, please, I think that question is too general.

JUDGE BARBAN: Mr. Banks, you brought this up.

I will tell both of you gentlemen, very frankly, I don't think much of the issue. I have permitted Mr. Banks to go into it, and I have to permit Mr. Kruse too. Go ahead, please.

A. I think we have legal right.

439 Q. I am not asking you what you think, I am asking you: Do you know whether any of Amshu's managers or employees had permission to go into Mr. Hopkins' apartment, from the time that he first took over the job as resident super? A. Oh, yes. As a matter of fact, we had people employed by Tom Fortunato; he gave him both keys. I think Mr. Dobutovic had both keys to his apartment; he was going in and out of it getting supplies from his apartment, or whatever.

Q. To your knowledge, was that permission to go in and out of the apartment ever retracted? A. Not as far as I know.

Q. To your knowledge? A. Not to my knowledge.

Q. Did you, at some point in time, discuss the hiring of Mr. Weissman with Mr. Hopkins? A. I think I mentioned to him after we actually hired him, a few days before he started, or at the time he started; or a couple of days before he started. I don't remember exactly what I told him, but he was getting a handyman, a full time handyman.

Q. Was Mr. Weissman, in fact, hired as a handyman between July 1 and July 22? A. In that period of time he was doing that function, yes.

Q. When you say you spoke to Mr. Hopkins about Mr. Weissman, what is your best recollection of what you said to Mr. Hopkins about

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Mr. Weissman, and what Mr. Hopkins said to you? A. I said to Mr. Weissman in the interview, that you are coming in with the idea of being hired as a resident superintendent, because we have to discharge the present man. That was the beginning of June; but I told him, "Look, until you familiarize yourself with the job, you will be working with him as a handyman."

Q. I am asking about your conversation with Mr. Hopkins, concerning the hiring of Mr. Weissman. Do you remember what you said to Mr. Hopkins, and what Mr. Hopkins said to you? A. I told Mr. Hopkins we had hired him a handyman as a helper for him.

Q. Did he, in fact, work as a helper or handyman? A. He did.

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Q. In reference to the ads that were placed, were you involved with placing the ad for the apartment? A. I was not personally involved in placing the ads.

Q. Who actually took care of placing the ad? A. Dave Halpern.

Q. Who would people contact after the ad was placed?

A. They would call a telephone number which was given, in our office, and they would call the office for an appointment if there was a response.

Q. If an appointment was set up, who would be the person that would be given to see the individual? A. In the case of Sleepy Hollow Gardens it was Mr. Dave Halpern.

Q. Would you necessarily have known whether or not there was a response to the ad? A. Really, I didn't do the interviewing at that particular time, because Dave Halpern was involved. He was involved until June, because Dave left around June. The beginning of June he left, and that was when I was more involved. At this particular time I was not doing the interviewing.

442 Q. Do you know how many responses, in fact, were had to the ad? A. I wouldn't know.

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RECROSS EXAMINATION

Q. (By Mr. Banks) Mr. Wideman, you are pretty familiar with this letter by now; does that fully state the reasons that Mr. Hopkins was discharged? (Hanging.)

JUDGE BARBAN: Let the record show that the witness is now looking at General Counsel's Exhibit 2.

A. If you let me read it, I did not write this letter, I did not sign this letter.

Q. You may take all the time you need to read the letter.

A. What is your question?

Q. I ask you if that letter fully states the reason Mr. Hopkins was discharged? A. It does.

Q. One other question

I recall on your direct testimony, that you made a special point of stating that you did not sign the letter for discharge. Is there any reason for that? A. Yes.

Q. Tell me what it is. A. This was a question of logistics, and a question of practicality. Number one: I reside on the premises, 444 which exposes me personally. I would like to be as little involved in this situation, that is because any antagonism or whatever you might call it -- I didn't want to be involved in the discharge of Mr. Hopkins under those circumstances. I wasn't involved; I didn't discuss with him his discharge, and I didn't discuss with him the union purposely, and with full awareness.

Q. Well, actually, though, whoever discharges him, it is Amshu that is doing it, so you are all really involved, aren't you? A. Yes, that is true.

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448

GARY SMITH

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DIRECT EXAMINATION

Q. (By Mr. Kruse) Would you please state your name for the record? A. Gary Smith.

Q. Mr. Smith, where do you reside? A. 38 Luney Court, Spring Valley.

Q. How long have you resided at 38 Luney Court in Spring Valley? A. One year this coming January 15.

Q. Is this the complex called Sleepy Hollow Gardens? A. Yes, it is.

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Q. When did you first go to these apartments with the prospect of renting there? A. Late 1973, around the November of December type area, that type of thing. I was there a couple of times to look at the apartments.

Q. Let me ask you this: Could it have been in October?
A. It could have been, but I would say it was probably in November.

Q. Did you go again in December or how many times did you actually visit the complex before moving in? A. Twice.

Q. Did you visit any of the apartments in the complex, actually get a look at any of the apartments there before you rented? A. Yes.

Q. Did you meet the superintendent, Mr. Hopkins?
A. Yes.

Q. Did Mr. Hopkins ask you if you would like to see his apartment? A. Yes.

Q. Did you go to see his apartment? A. Yes.

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Q. Would you describe it to the best of your recollection, room by room, what you saw in his apartment. A. Okay. First of all, when I walked in the door, there was a living room. In the living room there was a ladder, which is probably one of the six foot ladders type of thing. There were tools on the floor, like in a tool chest or box, or whatever. There were paint cans. In the living room, also, was some sort of a cot, like an Army cot. There was, like, one of those single cot things.

In the dining area, which goes off from the living room, there was a table of some sort. I don't recall what type, I just recall a table. There were a few chairs around, like there were a couple of folding chairs, and that type of thing.

In the kitchen, in the type of apartment he had, it was like a walk-in kitchen, so there wouldn't have been any furniture or anything like

that in there. I don't recall much about the kitchen, as far as, like, furnishings or that type of thing. There were -- well, I can't recall everything, I was interested in the appliances, and that type of thing.

Q. Did you go into the bedroom? A. Yes.

Q. Did you see any furniture in the bedroom? A. In the bedroom, I looked into the closet. As far as furniture in the bedroom, I don't recall. There could have been, but I don't recall. If there was, I think I would have remembered it, but I don't recall.

Q. How about the closets, do you remember the closets?

A. I remember looking in one closet, and there were like light

451 bulbs and things like that, which would be typical things, I guess, of a superintendent.

Q. Did you see any clothes? A. I don't recall.

Q. Were the closets that you saw full of gear, or was there room for clothes; do you recollect? A. The closets that I saw had like boxes; there would have been room for clothes, yes, but I don't recall seeing them.

Q. If there were, do you believe you would have recalled it? A. I believe so.

Q. Did you look anywhere else in the apartment? A. No.

Q. Do you recollect any decorations around the place?

A. No.

Q. You moved in when -- was it in January? A. Yes.

Q. Did you ever meet Mr. Hopkins' wife? A. No.

Q. Do you ever recollect seeing her or being introduced to her? A. No.

452 Q. Did Mr. Hopkins ever have occasion to do any work in your apartment? A. Yes.

Q. Did he have any assistance? A. Yes.

Q. Do you remember the name, or could you describe the person that assisted him? A. The first name was Tom. As far as describing him, he had a mustache, I don't remember that much about him. It was like in the spring or something; they put in an air conditioner in my apartment.

Q. Could you describe that day when the air conditioner was installed who came to install it; who worked on it? A. Both of them came. The other guy installed it; that type of thing. There might have been other times when both of them did something when I wasn't there, I don't know, but that is about all I can recall.

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CROSS EXAMINATION

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Q. (By Mr. Banks) I believe you said, as a matter of fact, Mr. Hopkins invited you to come into his apartment; is that right?

A. Yes, he did.

Q. What was your purpose? A. My purpose was to see the lay out of the apartments.

Q. Your concern really was the lay out of the apartment, and not how it was furnished; isn't that right? A. That is correct.

Q. I believe you said that Mr. Hopkins and his assistant did some work in your apartment; now what exactly was that?

A. They installed an air conditioner.

Q. Other than this time that you went into Mr. Hopkins' apartment in the end of the fall, probably in November, to look at the apartment, did you make any other visits to the apartment?

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A. Yes.

Q. Approximately when were those other visits? A. In January 1974.

Q. What was the occasion for that visit? A. I was moving in at the time, and I had problems with my furniture; and they were suppose to deliver the furniture, like on a certain day, and they did not. The furniture moving company insisted that they would continue to do it on a day-to-day basis, day after day, and I was working during the day, so at night I went on the day that they were suppose to deliver the furniture; they had promised me, and I went in my apartment, and obviously they hadn't brought the furniture. So I went to the superintendent's apartment to see if anyone had called or left a message and say that they had been or hadn't been there, that type of thing. And I did not go into his apartment because there was no one home. I rang the bell and knocked on the door, but there was no one there.

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RECROSS EXAMINATION

Q. (By Mr. Banks) The individual who assisted Mr. Hopkins, do you recall seeing him on the premises any time earlier than the time -- I don't mean in hours, but I mean with respect to months and weeks earlier than the time that he assisted with the air conditioner in your apartment. A. Yes.

Q. You had seen him earlier than that? A. Yes.

Q. Had you seen him with Mr. Hopkins earlier than that?

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A. Everytime that I had seen him, he had been with Mr. Hopkins.

Q. Mr. Smith, are you appearing here in answer to a subpoena?

A. Yes.

MR. BANKS: No further questions.

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STEVEN ANDELMAN

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DIRECT EXAMINATION

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Q. (By Mr. Kruse) When did you move into Sleepy Hollow Gardens? A. January 21, 1974.

Q. Let me just back up on that; it is Sleepy Hollow Gardens at which you live, isn't it? A. Yes.

Q. Did there ever come a time when you had the occasion to contact the superintendent? A. On several occasions.

Q. Can you remember approximately when the first of these occasions was, in point of time? A. Well, the first occasion was the first day we moved in.

Q. Do you remember approximately when the superintendent -- when I refer to the superintendent, do you remember the superintendent's name that was there when you first moved in? A. Yes, Tom Hopkins.

Q. Is Mr. Hopkins present in the court? A. Yes, he is.

Q. Do you remember approximately when Mr. Hopkins left -- the month? A. I would say it was in June, to be precise I didn't even know he had left until somebody had told me that he was no longer in the employ of the development.

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Q. During the time, from the time that you moved in, until the time that you became aware that Mr. Hopkins had departed, approximately how many times, to the best of your recollection -- I'm not looking for precise numbers, unless you can give them to me -- did you have the occasion to try to contact Mr. Hopkins. A. Between six and eight times.

Q. Could you tell us what your success was in that area?

A. Very limited.

Q. Would you be more precise? A. On several occasions we didn't have heat or hot water, especially on Saturdays and Sundays it seemed to happen. We tried for hours to get in touch with the superintendent or anybody to fix it; there was no success involved.

Q. Could you give us approximate months when this happened?

A. Well, I know it was at least two or three times in February and March, especially, because it was cold, and I have a young son. We didn't have any heat at all, I know, there was nothing there. You woke up in the apartment was just frozen.

Q. By what means did you attempt to contact Mr. Hopkins' apartment? A. We had a telephone number for his apartment, and we tried to contact him through that with no success; after that failed, we called the rental agent, Tanya I think her name was, and she said

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she would try to contact him, with no success. At times we were going, I would say, without exaggeration six to eight hours without heat.

Q. Were there ever weekdays or evenings during the weekdays that you attempted to get him? A. On a couple of occasions, with no success.

Q. Do you recollect whether that was by going to his apartment or by telephoning him? A. Mostly by telephoning him, once I went to his apartment, he was there at the time when we went there; my wife and I.

Q. Did you go inside his apartment or were you able to view his apartment at all? A. I went inside his apartment, yes.

Q. Could you tell us what rooms you were in in his apartment? A. I walked through the living room/dining room area, that's all.

Q. Could you tell me approximately when the first time was that you were in Mr. Hopkins' apartment? A. I would say in the middle of February.

Q. Could you tell me approximately what time it was?
A. About 6:30, 7:00 at night.

Q. Could you tell us what you saw in the apartment?
A. I saw a small table, I saw tools on the floor, I saw a cot.

469 Q. When you say a cot, could you describe that more precisely; was what you would describe as a couch? A. No.

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A. (Continuing) I would say it was a cot, it's a foldup bed with a simple mattress, a thin mattress.

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A. All right, the cot had a sheet on it, a thin blanket; that was all, and I can recollect that I saw in his apartment now -- one of our fixtures when we moved in, one of the light fixtures had broken, and he had given me his to replace that lighting fixture, so I can vividly remember seeing just his light hanging, no fixture or anything.

Q. You say there were tools, where were the tools located?
A. In the corner and on the floor.

Q. Were there any other articles around that you can remember?

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470 THE WITNESS: It struck me kind of funny that there was no living room furniture, no dining room furniture, for somebody to be living there on a full time basis, being there at night. When this happened after a couple of times when we could not get in touch with the superintendent, I sent a letter out to the building department of Spring Valley complaining about this.

Q. Could you tell us when this was you sent out the letter?

A. I think we sent it out in the middle or the end of March, I can't be precise on the date.

Q. Did Mr. Hopkins ever come to your apartment to fix anything?

A. Yes, when we moved in there were no sliding cabinets for the bathroom, the glass cabinets. He did come to fix that. We have heat controls in the apartment, which I have never seen before in my life, they are a Honeywell system, it says 1, 2, 3, 4, 5 and we were having a problem with it. We were suppose to have a control upstairs to control the heat upstairs, and a control to control the heat for downstairs. We lived there three months before we had a heat control for downstairs. So we had no control for heat in the apartment for downstairs.

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CROSS EXAMINATION

Q. (by Mr. Banks) Mr. Andelman, do you know what days off Mr. Hopkins had, or what days off he had, if any?

A. I was informed that he would have one day off, I did not know exactly what day that was.

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Q. On what day did you attempt to make those calls and visits to his apartment?

A. I tried to make the calls during the evening, or on Saturdays or Sundays when the occasion arose, when we had no heat or hot water.

Q. You testified that you had occasions, two occasions, when you attempted to find him in what you thought were the evening hours of the six or eight times that you had attempted to find him. Now when were the other four or six times; were they in the day time or what time were they?

A. Well, my wife tried, since I work during the day, my wife tried to call during the day.

Q. Just a minute. Were you there when she made those attempts to contact him? A. No, I wasn't. I can remember at least three occasions on Saturdays when we tried to get him; there was no success. One day it snowed and there was no heat.

Q. Other than these three times, are there any other times that you can testify that attempts were made by you to contact Mr. Hopkins? A. Well, just generally on the occasions when I tried to get him either at night, or on those Saturdays or Sundays.

Q. How many times was that? A. I would say in the three to four months that I knew he was on the premises, I would say it was eight times.

Q. These were times that you yourself attempted to call him?

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A. Yes, sir.

Q. At what time were they? A. I would say mostly between 6:30 and 8:00 at night, or on Saturdays and Sundays it was during the morning, 9:00, 10:00, 11:00, depending on what the problem was.

Q. You mentioned having considerable trouble with the boiler, did any other apartment use that same system other than you?

A. Since I don't know the structure of the apartment, I can't give you that answer.

Q. You said you visited Mr. Hopkins' apartment; how many times did you visit his apartment? A. One time.

Q. How long were you in the apartment? A. Maybe fifteen minutes.

Q. What was your purpose for going there? A. To see if we could get number 1: a light fixture to replace the one that had been broken, and to ask him a couple of questions; that we had problems in the apartment that we thought he could fix.

Q. Now this light fixture that you are talking about, is that the one that Mr. Hopkins took out of his apartment and put in yours?

A. Yes, sir.

475

Q. When did that take place? A. The early part of February.

Q. I mean in reference to the time you visited his apartment, when did that take place? A. About 3:30 at night, 7:00 at night.

Q. Did he make the change at that time? A. He gave me the light fixture. I took it home with me.

Q. You said that you thought his apartment was unusual insofar as the way it was furnished; is that correct? A. Correct.

Q. Do you think it was unusual that he gave you that fixture out of his apartment? A. Yes; I would think it was unusual. I would think living in an apartment building, a complex, that he would have spare parts and that he wouldn't take it out of his own apartment.

Q. You wouldn't blame Mr. Hopkins for that, would you? A. No, I'm not trying to lay all the blame on him.

Q. Did you have occasion to have any contact with any one else connected with the building, other than Mr. Hopkins, insofar as repairs? A. Yes, I did.

Q. Who else? A. Dave Halpern.

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Q. What I mean is, did you have any contact with any one that had any connection with assisting Mr. Hopkins in making repairs or such things? A. No.

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Q. (By Mr. Banks) Did you have any contact with anyone assisting Mr. Hopkins in maintaining the premises? A. One occasion I met a gentleman, I think his name is Dave, running around, and he informed me that he was an assistant builder or something like that. He said he did not know how to fix anything and he said I had

to get in touch with Mr. Tom Hopkins. Then, from that point on, forward, I was trying to get a hold of Mr. Tom Hopkins.

Q. When you moved into the building, did you receive any assistance from Mr. Hopkins? A. When we moved in, and I don't want to make this sound like it was completely his fault, the apartment was a total mess. Yes, he did have men come in and try to clean it up. We were missing some things which he did replace.

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Q. Did there ever come a time when it was necessary to make any installations for later in the season? A. Yes.

Q. Did you have any assistant for Mr. Hopkins at that time? A. Well, it took us two months of screaming to get the screens in, which, again, I can't actually blame it on him, because I don't know whose problem that was.

Q. Who was doing the screaming, Mr. Andelman? A. I was doing the screaming; that is when we finally got in touch with the building department, because it was warm in April and we had no screens, and I have a small child. And I don't like leaving windows open.

Q. Will you describe just to whom you made the screaming to, and how it was done. A. I spoke to him on several occasions; I saw him out around the building in the mornings before I would go to work, and I would say, "What about the screens?" and he would say, "They are coming." and I kept saying, "What about the screens?"

Q. How many times did you see him with respect to the screens? A. Generally, I saw him three or four times, in the mornings.

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Q. One morning? A. No.

Q. On different mornings? A. Yes.

Q. Is this included in the six or eight times that you had occasion to talk to him altogether? A. No.

Q. These are additional times? A. In the morning, a.m., not p.m.

Q. Are you saying then, that all the other times, the six or eight times, were always p.m.? A. Yes. When I don't have heat at 9:00 at night, I try to get a hold of somebody.

Q. Do you work on weekends? A. Yes.

Q. You work sometimes on weekends? A. It depends, I'm a salesman, my hours are my own.

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479 Q. (By Mr. Banks) Initially, you said, Mr. Andelman, that you tried to contact Mr. Hopkins either on weekends or on weekdays; now do you wish to change that testimony and say that you also tried to contact him in the evenings and the days? A. My wife tried to contact him during the day, because I was not home; without her getting any success, I called at night.

MR. BANKS: I ask that the answer be stricken.

JUDGE BARBAN: No, I think I understand what the witness is saying.

Mr. Andelman, you have got to understand this: At some stage of this proceeding I am going to be required to make a finding as to what happened. Now insofar as you are concerned, the only thing that you know happened is what you did, or what you saw, or what happened in your presence. Now I am willing to grant you that if your wife told you something, you would assume that she was telling you the truth, but that is a little bit beyond my purview. Just tell us what you know, and it will help me considerably.

THE WITNESS: In the times I tried to contact him for repairs that I thought were needed for the apartment, they were at night.

Q. (By Mr. Banks) At what time at night, Mr. Andelman?

A. Between 6:30 and 8:00, 8:30 at night.

Q. That would be true whether it was weekends or weekdays?

A. No, if it was weekends I tried in the morning, 10:00, 11:00, 12:00.

480 I remember this day very plainly, if you want --

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Q. (By Mr. Banks) Counting the times you attempted to
contact him in the evenings, on weekends, and the times that you

481 contacted Mr. Hopkins regarding the screens in the mornings,
and all the other times that you attempted to contact Mr. Hopkins
during the weekdays and in the evenings, and on weekends, how many
times did you attempt to contact him? A. I said six or eight times.

Q. When Mr. Hopkins was asked by you about the screens
several times, what answer did he give you? A. He said they
were coming.

Q. But what he was telling you, did you understand that to
mean that he didn't have the screens on the premises? A. If he
said they were coming, I would take it to mean they were not there,
yes.

Q. You had mentioned the fact that you didn't have a ther-
mostat control for heat in your apartment? A. Correct.

Q. Did you ask Mr. Hopkins about that? A. Several
times.

Q. What answer, if any, did he give you regarding that?
A. They don't have the part.

Q. If that was so, that wouldn't be his fault either, would it,
if he didn't have the part? A. No, I can't blame him for not having
the part, if he didn't have it.

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Q. Did you receive an air conditioner or air conditioners in your apartment? A. Yes, one.

Q. How were they put in and by whom? A. By Mr. Hopkins, I assume, I wasn't home when it was put in.

Q. Do you know approximately when they were put in? A. The end of May.

Q. You were in Mr. Hopkins' apartment about 15 minutes you said; is that right? A. Correct.

Q. And your purpose in going there was to get a light to replace the one that you did not have, a fixture that you did not have in your apartment? A. Correct.

Q. I believe you said that during the time that you were in there you walked through the living room and the dining room; is that what you said? A. Correct.

Q. You didn't see any other part of the apartment, did you? A. I could see in the bedroom.

Q. You didn't go downstairs? A. No.

Q. Were you in Mr. Hopkins' apartment at any other time, other than that one time inside his apartment? A. No, never.

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Q. I believe you have already testified you didn't know what day Mr. Hopkins had off? A. Correct.

Q. Do you remember which days you attempted to contact him those six or eight times? A. Well, specifically referring to the weekdays, no, I don't remember; Saturdays and Sundays I do remember.

Q. Let me ask you again, again, I am trying to get this straight for the record. Do these six or eight times still include those six or eight times you stated that you asked Mr. Hopkins about the screens; does that include those times? A. Well, not really, because they

really weren't a complaint I could do anything about; just in passing I said, "Are we going to get the screens?" I didn't really complain until the end of March or the beginning of April, because it was getting warm. I don't list that as a complaint. I list that as a passing comment on my way to work, maybe seeing him out in the yard.

Q. You don't list that as a complaint; would that be because on those occasions you saw Mr. Hopkins? A. Because I saw him outside, you know.

Q. Did you speak to him about the missing controls?
A. Yes.

Q. How many times did you speak to him about that?
484 A. I don't really remember. I mean it got to a point, to be very honest, I just gave up. It gets to a point where you say if you are talking to a brick wall you don't get any answers so you just stop talking.

Q. You were very specific about numbers and times and other things like that regarding your complaints, now you don't remember the number of times you spoke to him about the controls? A. I could say it was a hundred times, I could say it was 10 times, I don't think the number of times is really relevant.

Q. That isn't for you to decide, I am asking the questions and it is your obligation to answer, Mr. Andelman.

How many times did you ask him about the fixture? A. About the fixture? Once, because I went over and I got it.

Q. I mean the control fixture. A. I might have asked him about it in passing maybe four or five times.

Q. But you are not including those in the six or eight times, are you? A. I am not including those in the times that I could not get a hold of him.

Q. It is only important to you those times that you could not get a hold of him? A. It is only important to me when I have

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a complaint to get a hold of him, and I couldn't get a hold of him, and when I don't have heat and I can't get a hold of him, that is important to me.

Q. Those times that you couldn't get a hold of Mr. Hopkins, you didn't know where he was, did you? A. No, I have no idea. I tried for six hours to get a hold of the man, so I have got to wonder where he is.

Q. On any occasion, did you try for six hours? A. Absolutely.

Q. On what occasion? A. I don't remember the date; on one Saturday it had snowed on Friday night, and we woke up that Saturday morning to no heat; for six hours my neighbor upstairs and I tried, we went out looking for him eventually, to try to find him to get the heat for that apartment.

Q. Do you know what date that was? A. It was in early April, because I remember it snowed.

JUDGE BARBAN: Do you know what day of the week it was?

THE WITNESS: It was a Saturday.

Q. (By Mr. Banks) Again, you don't what day Mr. Hopkins had off? A. No, and to be very frank, I was informed that there would be a superintendent or supposedly a superintendent there, when I moved in, every day of the week. It has always been my experience

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to have a superintendent available at all times any day of the week wherever I have lived.

Q. You already said you didn't know what day Mr. Hopkins was off, and you don't know whether or not they have some one covering for him? A. I have no idea; the only thing I can spread light on is that on the one Sunday when we did not have hot water it was evident nobody was covering, because we did not have hot water.

Q. That is a conclusion you made? A. After you don't have hot water from 8:00 in the morning, and the rental

agent tells you to boil hot water, I think you have got to think twice about what is going on around there.

Q. You are saying, then, that anytime you have a complaint that is not corrected, you are assuming that there is no one covering the job? A. I didn't say that, I said when it is any length of time.

Q. What is it you are saying? A. You said that I said it the other way.

Q. Is it an hour, a half hour? A. About eight hours, six hours, five hours.

Q. You are telling me that whenever you lived in an apartment, that every complaint that you had was satisfied? A. Absolutely.

487 Q. Where did you live prior to your moving here? A. Holbrook, Long Island.

Q. Do you have any outstanding complaints now, Mr. Andelman? A. The one complaint I have with the apartment is the heat still doesn't work right, but what am I going to do.

Q. Do you know whether or not that superintendent is available when you make a complaint? A. Yes; he does come over, in fact, I ran into him one day and I said, "Can you see if you can do anything about it?" And he does try to fix it, yes. I have no complaints with the superintendent at all, he has been helpful in every case. He has been efficient in every case, and he has been prompt.

Q. But you still don't have heat? A. We have heat.

Q. Do you have hot water? A. We have hot water; we haven't had a problem with hot water since --

Q. You just said you have complaints; what kind of complaints? A. Minor adjustments; we had a leak in the bathroom, and he came over within 15 minutes and fixed it.

Q. Do you have your controls now? A. Yes; I have my controls now.

488 Q. Was it necessary to make any adjustments regarding your air conditioning after it was installed? A. Yes, because the placemat for the wall was incorrect; we couldn't hardly open the door.

Q. Who did that? A. Mr. Hopkins.

If you want to put it that way, it took him three weeks to do it, with us trying to open the door halfway.

Q. But he did it? A. Yes, he did; I can't say he didn't do it.

Q. When I asked you before were there occasions when you had to use his services, you didn't remember that? A. I don't remember every time he came over to our apartment, no, I don't.

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REDIRECT EXAMINATION

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A. Are you saying did I know if anybody else lived there on the premises? A.

Q. (By Mr. Kruse) That is correct. A. Not as far as I know.

Q. You never met a woman that was suppose to be Mrs. Hopkins and was identified as Mrs. Hopkins? A. I never met anybody, and when I attempted to call nobody answered other than Mr. Hopkins.

Q. You said you could see in the bedroom on the occasion that you entered the apartment; what did you see in the bedroom?

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A. An empty bedroom, a cot, that was it.

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RECROSS EXAMINATION

Q. (By Mr. Banks) You only were in Mr. Hopkins' apartment one time; is that correct? A. Correct.

MR. BANKS: I have no further questions.

JUDGE BARBAN: Mr. Andelman, I have heard considerable about the problems with the heating plant at this apartment development. Are you saying that you know of no occasion in which Mr. Hopkins ever made an attempt to adjust or fix or repair the heating equipment?

THE WITNESS: No, I don't think I said that.

JUDGE BARBAN: What I'm asking you is --

THE WITNESS: I think what I was trying to say, evidently it had to be fixed because it came back on, but we didn't have heat for three months, but it did come back on.

I said when we tried to get help within let's say an hour, which would be a normal time for a superintendent trying to fix the heating unit, to get it back on, it was an extensive amount of time; it was five or six hours before we had heat. On the occasion -- I'm not saying or trying to say we did not have six days a week, but on the occasions the heat did not work, we had considerable problems trying to obtain help to get it fixed.

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NANCY-RITA WOOD

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DIRECT EXAMINATION

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Q. (By Mr. Kruse) Did there ever come a time when you had the occasion to attempt to reach the superintendent of the apartment in June? A. Yes.

Q. Was it in June? A. It was in June.

Q. Could you tell us approximately when? A. On the 16 or the 17, I don't know exactly which date.

Q. Could you tell us what happened on that occasion, the time that it occurred? A. It was around 5:00 at night, and I was running the hot water in the tub; the hot water didn't come out that easily, so I was running it ahead of time, and the hot water faucet head came off and shot hot water across the wall. We didn't have a phone number, so I ran up there.

493

Q. When you say you ran up there -- A. Up to the superintendent's apartment. There was no one home.

Q. When you say you ran to the superintendent's apartment, how do you know it was a super's apartment? A. It said Superintendent, that was the only way I knew. I came back, because there was no one there, and I called up the Spring Valley Police, and for about an hour and a half there wasn't anybody that could find the shutoff valve for the water. Therefore, we had a sauna bath in our apartment, and this was full of steam, and the people were climbing in and out of the basement windows to find the shut off valve. We finally got a plumber, an outside plumber, to come in and find the valve.

Q. Did you have occasion to contact any officials in Spring Valley? A. I didn't know I had to at the time; the Friday following that I did call them and tell them about it, just to notify them. The Spring Valley -- I don't even know what it is now -- people who give you the certificate of occupancy.

Q. Were the police there on that occasion? A. Yes; I had the Spring Valley Police there, and he stayed throughout most of the time. He had to leave, there was nothing he could do, and then they came back at 11:00 to make sure everything was okay.

494

Q. To the best of your recollection, how many times was Mr. Hopkins at your apartment that you can recollect? A. Well, the number of times?

Q. To the best of your recollection. A. Maybe four or five times. There were a couple of things that were wrong when we moved in; I would say four or five times the most.

Q. Did you have any problem in reaching him, or were you able to reach him in each and every instance? A. That one time was the only time I had to call, there was no phone number, and I couldn't find him.

Q. When he came to your apartment, was he alone in each instance? A. No, I don't know the gentleman's name, but the gentleman that walks with a limp.

Q. Would you describe him? Does he have any facial hair? A. Yes, he has a mustache, he is short, and he has one shoe bigger than the other; I don't know his name.

Q. Did he ever accompany Mr. Hopkins? A. Yes, he was there almost every time.

Q. Did he assist Mr. Hopkins in doing the work? A. Yes, he did.

Q. Could you tell us who actually did the work? A. The man with the limp mostly, he was doing baseboard work in the kitchen. I don't know what work it was, it was under the counter, and he did all of that work in there.

Q. Did you have an air conditioner installed? A. After we were in there a while an air conditioner was there when I came home from work one day.

Q. Of the number of times that Mr. Hopkins was in your apartment, how many times was the other gentleman, or the gentleman

with the larger shoe with Mr. Hopkins? A. One time less.

The people who give you the certificate of occupancy, I don't know who they are, he was not with him one time.

Q. The gentleman with the limp was not there at that time?

A. No, not at that time.

Q. Did you ever meet a woman who either was introduced to you, or held out to be Mrs. Hopkins at the apartment complex?

A. No, not at all.

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JUDGE BARBAN: It seems to me that would be very simply ascertained, whether the lady had any knowledge of Mr. Hopkins' wife on the premises; is that your point?

MR. KRUSE: Yes.

JUDGE BARBAN: Well, if she knows I will hear it.

Can you answer that question?

THE WITNESS: I didn't think there was a Mrs. Hopkins anywhere on the premises.

Q. (By Mr. Kruse) You weren't aware of Mrs. Hopkins on the premises? A. No, not at all.

497

Q. Did you ever have the occasion to visit Mr. Hopkins' apartment? A. No.

MR. KRUSE: I have no further questions.

JUDGE BARBAN: Cross examination, please.

MR. BANKS: If counsel has a statement, a sworn statement or any other kind of statement from the witness, I would like to see it at this time.

MR. KRUSE: We don't have a sworn statement from the witness, we have a statement which is signed by her.

MR. BANKS: All right. May I have a couple of minutes to read this?

JUDGE BARBAN: Yes, you may.

MR. KRUSE: I would be happy to put that in evidence if you would like. We will be happy to offer this statement in evidence, Your Honor?

JUDGE BARBAN: Just a moment, this procedure is becoming quite unusual.

CROSS EXAMINATION

Q. (By Mr. Banks) Did you have any conversation with Mr. Hopkins regarding his marriage? A. No, I did not.

Q. You did not? A. No, not regarding his marriage.

Q. Did you have any conversation with him that had anything to do with whether or not he had been married or was married at that time, or anything like that?

* * * * *

Q. On this date, the 16 of June, when attempts were made to contact Mr. Hopkins, did you yourself go to the apartment?

A. Yes, I did, I ran all the way.

Q. When you were asked on direct examination, you said that you had not been to his apartment? A. I didn't go in it, I knocked on the door and I rang the bell and nobody answered. If that is an occasion to be there, then I was.

Q. In other words, what you meant is that you had never been inside the apartment? A. No; and I didn't have a phone number at the time either, to call.

Q. Do you know what day of the week June 16 was? A. It should have been a Sunday, because it was Father's Day. I'm not sure whether it was the 16 or the 17.

Q. You don't know whether or not Mr. Hopkins was off that day or not, do you? Do you know what day he was off? A. I had no idea if he was off or not, but there should be a note telling us where some one else is if there is an emergency or something.

499

Q. If that would be true, if they had some one filling in, that would be the normal procedure you would think; is that right?

A. Yes, right.

Q. You don't know whether or not if Mr. Hopkins had a day off, whether he had a replacement or someone covering for him on that day? A. No, I have no idea.

Q. As you indicated in your direct examination, this was the only occasion that you had difficulty reaching Mr. Hopkins; is that right? A. That I had? Yes.

Q. There were several other occasions when he and his assistant were there performing various functions in your apartment? A. Yes.

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JUDGE BARBAN: Gentlemen, what we have, then, if I understand you, is a stipulation that this is an authentic copy of the paper for the date which it bears, and that the telephone number is the telephone number of Amshu Associates located at some place other than Sleepy Hollow Gardens itself; is that correct?

MR. KRUSE: That is correct.

MR. BANKS: I would so stipulate.

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MR. KRUSE: I just want to point out to the court's attention that the ad shows the telephone number 352-5252.

Mr. Hearing Examiner, we do have, Your Honor, copies of the checks. Rather than submitting copies of the checks, I am sure

Mr. Barks won't object to this stipulation, and even Mr. Hopkins will remember this one. There was, in fact, a \$5 increase in the month of May in his wages.

Now this is a stipulation for the record, if that is okay. There was a \$10 raise in December, and a \$5 raise in May.

MR. BANKS: Now could we cover this with the stipulation of covering all of his raises? He received a \$10 increase about Christmastime.

MR. KRUSE: That is what I said. A \$10 raise in December, and a \$5 raise in May.

MR. BANKS: I will so stipulate.

JUDGE BARBAN: The stipulation is received.

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505

DIRECT EXAMINATION

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Q. (By Mr. Kruse) Did you know whether or not Mr. Hopkins had any assistant? A. The day that he was hooking up the stove in the apartment there was another gentleman with him.

Q. Do you know what that gentleman looked like? A. No, I don't, I don't remember.

507

Q. Was the gentleman assisting Mr. Hopkins? A. Yes, he was hooking up the stove.

MR. KRUSE: I have no further questions.

CROSS EXAMINATION

Q. (By Mr. Banks) You have seen the lady who previously testified? A. Yes.

Q. Do you share the apartment with her? A. Yes, I do.

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DR. LAWRENCE GORDON

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DIRECT EXAMINATION

Q. (By Mr. Kruse) Dr. Gordon, would you please state your full name for the record, and where you live? A. My name is Dr. Lawrence Gordon, and I live at 6 Luney Court, Spring Valley, New York.

Q. Do you know Mr. Thomas Hopkins? A. Yes, I do.

Q. Is he here in this room? A. Yes, he is present.

Q. Do you know what Mr. Hopkins' occupation was at the time you moved in the apartment complex? A. Yes, he was in his apartment.

Q. Were you in the living room? A. Yes.

Q. Any other rooms that you were in? A. No.

Q. Do you recollect, or would you describe for us what you saw in the living room by way of furniture, or any other articles that were there? A. Well, I recall that there was various tools and instruments on the floor, and in the kitchen area I believe, to the best of my recollection, there was a small table and one or two chairs. And there may have been some cooking and eating utensils and I think there was a television set in the living room area. I think also there may have been a small cot, one of those fold-a-way cots. I don't have a clear recollection, but something tells me that.

Q. Did it have any covering on it, do you recollect?

A. I don't recall.

Q. Do you recollect any other furniture in the place?

A. I don't recollect anything else, again, I was only in the room for a few minutes, and I didn't pay close attention to what was there.

Q. When did you first move in the apartment? A. I would say about the middle of December, 1973, approximately.

Q. When was the last time you visited the apartment that you can recollect? A. Well, the one and only time that I was in his apartment was probably several weeks following our moving in. Mr. Hopkins had installed a siegel lock in our door, and I had gone to his apartment to pay him for it, and that was the only time that I was in his apartment. And I think that was a month, or it could have been two months, but it was probably a few weeks after we had moved in. It may be two weeks or it may be six weeks, I don't recollect exactly.

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CROSS EXAMINATION

Q. (By Mr. Banks) Dr. Gordon, I believe you said you moved in in December of '73? A. Correct.

510 Q. During the time that you were there, other than the time that you had occasion to visit Mr. Hopkins' apartment, did you have occasion to use his services? A. Subsequent to the installation of the lock on the door?

Q. Well, during the whole time, other than that one time. A. Well, there were other times that we used his services.

Q. Do you remember some of the things that you used his services for? A. Yes; I remember he installed I think two air conditioning units, I think we also had trouble with the windows, one of the window frames was buckling, and he straightened that out. You know, my wife spends the day at the apartment, and she had more contact with Mr. Hopkins than I did. I feel that there were a couple of other instances, I remember we had a leak in our roof once, and I think that he investigated that. There may have been a couple of other times, I am sure there were, but I can't recall.

Q. Did he have anything to do with the installation of any material on the kitchen floor for you? A. Oh, yes, the kitchen floor buckled and as a result it was somewhat hazardous, so Mr. Hopkins repaired it and laid down a new floor. I'm not sure what was done underneath the floor, I imagine something of a technical nature had to be done in order to straighten it out, a new floor, and new linoleum covering was put down; and I remember that, right.

Q. Did you find that flooring to be satisfactory? A. 100 percent.

511 Q. You said he installed, I believe you said, a siegel lock for you; is that correct? A. Yes.

Q. Did you give to Mr. Hopkins to keep, one of the keys to that lock? A. Yes, we did.

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THOMAS DOBUTOVIC

having been previously called as a witness by and on behalf of the Respondent and, having been first duly sworn was examined through a Russian interpreter, and testified as follows:

JUDGE BARBAN: Mr. Dobutovic, you recall that I previously put you under oath in this proceeding?

512 THE WITNESS: I do recall.

JUDGE BARBAN: And you understand that you continue to testify under oath?

THE WITNESS: Yes.

JUDGE BARBAN: Now the record should show that Respondent has tendered a translator to assist Mr. Dobutovic's testimony, whose name is Alexander A. Alkalay.

Mr. Banks, I understand that you are satisfied to accept Mr. Alkalay as interpreter in this matter?

MR. BANKS: Yes, I am.

JUDGE BARBAN: Mr. Alkalay, would you stand and raise your right hand? Do you swear to tell the truth and truthfully interpret the testimony of the witness according to the best of your full knowledge and belief, so help you God?

MR. ALKALAY: So help me God, I will.

JUDGE BARBAN: You want to proceed, Mr. Kruse?

DIRECT EXAMINATION (Continued)

Q. (By Mr. Kruse) Mr. Dobutovic, what is your address?

A. 187 Edmund Avenue, Paterson, New Jersey.

Q. Did you ever work for a company called Amshu?

A. Yes.

Q. Could you tell us when you first worked for them?

A. November 20, 1973.

Q. How long did you work for them? A. Until August.

Q. Of which year? A. '74.

Q. Did you ever meet the superintendent of Sleepy Hollow Gardens during the time that you worked there? A. Yes.

Q. Do you know the name of the person who was the superintendent? A. Mr. Tom Hopkins.

Q. Did you ever actually work with or work for Mr. Hopkins?
A. I worked with him.

Q. Could you tell us when you first worked with him?

A. Approximately maybe February 1974.

Q. Was that when you began working with him? A. Yes, approximately at that time I started temporarily working with him.

Q. What did you start doing with him at that time? A. Whatever was necessary to be done within the apartments.

Q. Starting in February, approximately how many days a week did you actually work with Mr. Hopkins? A. I could not tell how many hours per week, but usually I worked with him for several days, or for the entire week.

Q. Did this continue, though, in March? A. Yes, it did in March, and again in April, depending on the requirements.

514 Q. Did you work with him in the month of May? A. Yes, I did in May, also.

Q. Do you know when Mr. Hopkins was discharged as superintendent? A. Yes, I am familiar with it.

Q. Could you tell us either exactly when or approximately when it was? A. Approximately in July.

Q. Did you continue working with Mr. Hopkins in June? A. Yes, up to the end of June.

Q. Were you ever in Mr. Hopkins' apartment? A. Whenever I worked with him I also went to his apartment.

Q. Could you tell us approximately how many times you were in his apartment? A. I could not say for sure, but any day that I worked with him, that day I would also go in his apartment.

Q. Which rooms of his apartment were you in? A. Mostly in the living room.

Q. Did you ever go into the bedroom? A. If there was any need to pick up any materials, I would go into the bedroom also.

Q. When was the last time you were in the bedroom, to the best of your recollection? A. At the end of June.

515 Q. Would you please describe the living room for us of Mr. Hopkins' apartment? A. There were differences between the initial and the final arrangement.

Q. Could you tell us what they were? A. In the beginning there was one bed, later on there were two beds.

Q. Where was the second bed? A. As you enter, to the left of the door.

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Q. (By Mr. Kruse) When was the first that you ever noticed the second bed in the apartment? A. I would not say that.

Q. Was it in January? A. Oh, no.

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A. (Continuing) Sometime after May.

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516 Q. (By Mr. Kruse) Was it in January? A. No.

Q. February? A. No.

Q. March? A. After May.

Q. Did you ever meet Mrs. Hopkins? A. I did.

Q. To your knowledge, did she live at the apartment?

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A. I was not concerned about that, but I did meet her repeatedly there, and I did see her repeatedly there.

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Q. Did you ever go into his bedroom? A. I did.

517 Q. What did you see in the bedroom? A. Mostly in the bedroom were the materials which we needed to finish up the apartments, and the tools which we needed.

Q. Was there any bedroom furniture in the bedroom at any time, that you saw? A. There was no bedroom furniture.

Q. Did you ever go down to the recreation room?

A. Yes, sir, I did.

Q. Was there any furniture down there? A. No, not a single one.

Q. Mr. Dobutovic, I show you this picture which is marked Respondent's 1, and I ask you to look at this, and I ask you if you can identify it (handing)?

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A. This is the living room -- no, this is the bedroom, yes, this is the bedroom.

Q. Is there anything in it particularly that you can identify in the picture? A. This is a spare cabinet, or a cabinet to the kitchen, and it is a primitive desk table for the tools, and this is what was in the room.

Q. When did you first see that table in the room? A. From the beginning, it is not a real table, but it was there from the beginning.

518

Q. I show you this picture marked Official Exhibit Respondent's 2, and I ask you if you can identify that (handing)?

A. This seems to me that this is the same place, unless it may be possibly in the living room to the left side. That is what it would seem to me.

Q. Do you recognize the table that is in that picture? A. Yes.

Q. Could you tell us where you have seen it before? A. That is not a table.

Q. What is it? A. It is a bit of plaster board, and the legs, and on the other side is a box, and within that box there was a part of the kitchen cabinet tree.

Q. Did you ever see that before, this arrangement, anywhere? A. No. As I would enter the apartment, I would be using these tools and this is where I had occasion to see it there.

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Q. (By Mr. Kruse) Did you ever look or see the inside of the bedroom closets in Mr. Hopkins' apartment? A. Yes;

there were two closets.

Q. Do you remember what was in the closets? A. Material.

Q. Could you tell us what kind of material, specifically?

A. These were all the supplies that we had to mount within the bathroom, there were the soap holders, toilet tissue holders, and small hardwares, screws, towel bars.

Q. Were there any other closets in the apartment for clothes?

A. Yes, sir.

Q. Where were these? A. Yes, there was one -- there is one as you approach the bathroom on the right side, there was a closet where one could keep clothing and personal necessities, and another one was in the living room where coats and suits were held.

Q. Did you look in the hall closet at anytime during the period? A. In the living room?

Q. In the hall, first. A. You mean as you go from the living room into the dining room?

Q. Yes. A. Yes; that is where the clothes were kept.

Q. Do you remember what kind of clothes were kept in there?

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A. Yes, in the living room on the left side in the closet, there were men's clothing.

Q. Was there anything else in that closet? A. I don't know, I didn't have any interest to look closer into it.

Q. Were there any women's clothes in that apartment?

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A. No, I don't remember seeing any.

Q. Do you remember seeing any women's clothes in the apartment? A. I don't remember that I would ever notice it, it was not of interest to me.

Q. You said you saw Mrs. Hopkins there a number of times? A. Yes.

Q. Were you there in the evenings at all? A. Yes; after work sometimes for a few minutes.

Q. What was the latest you were in the apartment? A. Perhaps 4:15.

Q. In terms of seeing Mrs. Hopkins at the apartment, was she there everyday?

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521 A. No; I was just working there, and when the need arose for me to go into his apartment, I would go in there and I would sometimes see her there, both in the mornings and in the evenings.

Q. When you say the evenings, what is the latest that you ever saw her there? A. After 4:00.

Q. How much after 4:00?

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A. As late as I would be there.

Q. In terms of the living room, you said at first there was one bed, and then two, would you describe the first bed that was in the living room? A. I do not know exactly when, but some time around May or in the summer the second bed was brought in, but it was not a concern of mine.

Q. I am asking if you can describe what the first bed looked like. A. Yes, I can describe it.

Q. Would you please tell us what it looked like? A. It is a collapsible bed of the type that a camper would take on a camp trip.

Q. About how wide was it? A. For one person.

522

Q. Did it have any covering over it? A. It had the mattress; it had a blanket also, and a pillow.

Q. Were the blanket and the pillow on frequently, or was there anything else on the bed other than a blanket and pillow? A. Mostly it was just the blanket and the pillow.

Q. Were there any decorations on the wall in the living room that you can remember? A. Initially, there was nothing, later on in the course of the summer a big curtain was placed over the doors leading out of the back into the patio.

Q. Can you describe approximately when in the summer this occurred? A. It was hot when it was set in, it would have been after May.

Q. Was there any other furniture in the living room that you can remember, other than the bed? A. Initially there were a few chairs, perhaps four of them, plus a round table.

Q. Anything else? A. Later on, maybe in June, I don't know for sure, another table was brought in with perhaps three more chairs.

Q. Could you describe the chairs that were there at first, with the table? A. Two of them with metal or iron collapsible chairs.

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Q. How many were there altogether? A. Three or four of the small ones, and later on three of the arm chairs.

Q. You say two of the chairs were folding chairs, the first chairs that were in there, or were all of them folding chairs? A. I cannot remember exactly this. I used mostly one of them.

Q. To your knowledge, did Mr. Hopkins actually live at the apartment?

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Q. (By Mr. Kruse) Did Mr. Hopkins ever have any conversation with you concerning his wife?

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A. Not on purpose, he did not talk to me about it, it was none of my concern.

Q. There were no statements that you can ever remember Mr. Hopkins making about his wife to you at all?

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524 A. I have no interest in looking into these statements, this was the personal affairs of theirs. I have a feeling, an indirect feeling that she was going to move into the apartment.

Q. When did this feeling come about?

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A. In the course of the summer, this is because often times I would have luncheon there, and he would also fix his own meal, and conversations were held to the effect that it would be good if someone else were there to make his meal for him.

Q. When you say you had the feeling that Mrs. Hopkins was going to move in, to your knowledge, did she or did she not live there prior to the summer?

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525 A. I had the feeling before the summer.

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Q. (By Mr. Kruse) The question is: You made a statement you had a feeling before the summer, I am asking you what the feeling was. A. I cannot explain that to you, you know, we are family people, and we always wish our families to be around us. This was just a suggestion on my part, but I could not imagine why he was living so separated, why they were living so separated, but we did not go into the essence of the subject.

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Q. (By Mr. Kruse) When you stated that they were separated, what specific knowledge or facts did you have of whether or not they were separated, or whether they were living together in Sleepy Hollow Gardens? A. As far as I know, they did not live together.

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CROSS EXAMINATION

Q. (By Mr. Banks) As a matter of fact, you do not either speak or understand English very well, do you? A. No, I don't know it very well.

Q. As a matter of fact, that is the reason that Mr. Hopkins went around with you when you were making repairs or adjustments, isn't it? A. Oh, no. No. He had many apartments and a number of problems and he needed a helper, an assistant.

Q. The conversation that you had with Mr. Hopkins about anything, had to be very limited because of the language problem, didn't it? A. Yes; we used the most elementary English language to communicate; he spoke very slowly and explained to me very precisely the things that I was to do for him. I mean, I understood him better than any other American.

Q. Did Mr. Hopkins ever tell you that his wife wasn't living on the premises at Sleepy Hollow Gardens? A. No; he only mentioned that he has a house elsewhere in a different location, and that they spend more time there than they would here.

527

Q. Did he tell you whether he spent more time there than he did here? A. No; in the beginning he would only go there on a Sunday.

Q. Is that what he told you, or is that what you have decided? A. This is what I noticed, what I observed.

Q. Were you there on Sundays? A. No. Later he worked on Sundays and he took some other day free.

Q. Do you know whether or not anyone replaced him when he wasn't there; when he was off? A. I alone. I had the keys and I did the work.

Q. Did you work there on Sundays? A. Never.

Q. So if Mr. Hopkins was off on Sundays then you wouldn't be there; is that right? A. No; I'm talking about early in the spring; I would not be there.

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Q. He didn't, at any time, tell you that his wife was not living with him, did he? A. No, we had a number of problems concerning our jobs outside, and that was the main subject of our conversations. He had the task of teaching me some things which I did not know, for example, working in the boiler room, and fixing things if he were not present.

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Q. The materials that were stored in Mr. Hopkins' apartment, were they materials that belonged in various apartments when they were occupied? A. Yes, they were.

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KENNETH L. CHILDERS

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

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Q. (By Mr. Banks) What position do you hold, Mr. Childers?

A. I am a representative and business agent for Local 32 E.

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Q. How long have you held that position? A. Seven years.

Q. In connection with your position, do you recall having had a meeting before the State Labor Board with representatives of the respondent, on or about June 25, 1974? A. Yes, sir.

Q. I must ask you whether or not you know the gentleman sitting here, Mr. Hopkins? A. I do.

Q. When did you meet Mr. Hopkins? A. About 25 years ago.

Q. Was that in connection with the union, his membership in the union? A. Yes, sir.

Q. What was your position at the time? A. I was a superintendent of a building.

Q. What was his position at the time? A. He was also a superintendent.

Q. Did you have any occasion to meet him during 1974? A. I did.

Q. What was that occasion? A. He was working at Sleepy Hollow Garden complex in Rockland County, he signed a pledge card for us to represent him in negotiating for a contract and the benefits and etc.

532

Q. Do you remember the approximate date that that meeting took place? A. I think on or about the 24 or the 25 of June.

Q. Where did it take place? A. In my office in Rockland County, West Nyack.

Q. Your office is in Nyack? A. Yes, sir.

Q. As a result of the meeting there and his signing the card, what, if anything, did you do? A. I filed it for certification at the New York State Labor Relations Board.

Q. What happened in connection with that? A. Well, of course, we had to wait for a date from the State, which they do send out the dates, and I had a meeting on, I think it was the 25 of June at New City in reference to Spring Valley Gardens, which was also the same people or principals involved. This was conducted by the New York State Labor Relations Board on that date, which we have had a few prior to this, which it was either counsel asking for an adjournment, or the company. So we did have a meeting on June 25. Mr. Wideman, whatever you call him, and Mr. Kruse were present, and also Bill Roth, Mr. William Roth, who was the Hearing Officer from the New York State Labor Relations Board. At that time they said that inter-state commerce -- they thought at the time that New York State wouldn't have a jurisdiction of the case, so therefore we would have to file at the National Board, which it was adjourned that date, and which we did file at the National Board.

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Q. During that time that you were there at that meeting, did you have a conversation with any representatives of Amshu with respect to Mr. Hopkins? A. Well, I had a conversation with Mr. Wideman in reference to Sleepy Hollow, which would be Mr. Hopkins, and I explained to him that I had signed the building the previous day, and if we could hear the both of them at once, because he was the principal of the two buildings.

Q. By the both, you mean Sleepy Hollow Gardens and Spring Valley Gardens? A. Yes, sir. And he said, "I'm unhappy with the man, I don't want him." I said, "Well, we have it filed at the State Board." And I explained to him what steps we would have to take in order to protect our members. He was a member of ours for 20 years, and he said he didn't care, he wanted to fire the man anyhow. I said, "You better consult your attorney, because it is going to be a lot of litigation, and a lot of drawn out procedure that is going to be involved with it." He also told me he was going to dock Mr. Schmidt which was involved in Spring Valley Gardens a half a days' pay, for being at the hearing, which the State had ordered. Well, he

534 wasn't subpoenaed, but he was ordered, and which he was involved with it. Later on, about an hour later, I got a call from Mr. Kruse, which is his attorney, and he said, "Well, he was not going to dock him for half a day's pay."

Q. Was that the end of the conversation that you had with Mr. Wideman? A. He said something in reference to "the man is not living there, he didn't move in." Which is of no concern of mine. I know the man, as far as we are concerned he was a superintendent, he did sign a pledge card, and therefore we did file for certification for Mr. Hopkins.

Q. During the course of that conversation or immediately thereafter, did you have occasion to leave them to make a telephone call? A. Yes; I called my office.

Q. About how long were you on that call? A. Ten minutes, I guess.

Q. Was that call in any way related to the conversation you had with the respondent about Mr. Hopkins? A. No, sir.

Q. Did you tell them what call you were going to make, or to whom, or about what? A. No, sir.

Q. Did you see Mr. Wideman after you finished making the telephone call? A. Yes; because it was a continuation of the hearing, that we were having before the State Board.

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Q. Did you have any further conversation about Mr. Hopkins? A. All I asked Mr. Wideman to do was sit down and we would negotiate a contract, which they had these three buildings and, of course, they wouldn't sit down, and we had to file at the National Board.

Q. Did you tell Mr. Wideman or any one else there that he was correct, that Mr. Hopkins did not live on the premises? A. I did not know where Mr. Hopkins lived, I assumed he lived at the building where he signed up, because a superintendent is supposed to be a resident of the job he was working.

SURREBUTTAL EXAMINATION

Q. (By Mr. Kruse) I was present when you discussed Mr. Hopkins having signed up with the union, wasn't I? A. Yes, you were.

Q. Isn't it true that when you told Mr. Wideman that Mr. Hopkins had signed up, Mr. Wideman told you that he was going to fire Mr. Hopkins? A. Yes, he did, yes.

Q. Didn't he tell you that he had already had a replacement for him? A. I'm not sure.

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Q. Didn't we, in fact, have a discussion in which he turned to me and asked me whether or not he could still fire him? A. As I remember, I told Mr. Wideman that if he fired the man he would have been in more problems than he has now, because we would have to file an unfair labor charge against Mr. Wideman. And I said, "Please consult your attorney, and he will explain to you what this means in legal terms."

Q. Didn't I, in fact, state to you, that if the man had already been replaced, there was no problem in firing him? A. The man hadn't been fired as of the 25 of June.

Q. He was going to be fired.

Didn't he, in fact, tell you that he already had a replacement for him? A. No, he did not.

Q. Isn't it a fact that when he discussed giving Mr. Schmidt a half days' pay, that the reason he was not going to get the half day's pay was because he did not ask any one for the time off, or tell anyone that he was not going to be at the apartment, that he was going to the hearing? A. Mr. Schmidt now?

Q. Mr. Schmidt. A. I think there was something that happened in that vein, yes. But you also told me he would be paid for that half day.

Q. I did discuss with you the fact that he had not previously asked permission to leave the complex, and he didn't tell anyone that he was going to be at the hearing? A. Yes; Mr. Schmidt.

Q. Didn't I tell you that that was the reason for Mr. Wideman's reaction of docking him the pay; because he was not informed or did not request time off from anyone? A. Yes.

Q. Isn't it true that when you came back from the telephone call you said to Mr. Wideman, in my presence, that you had talked to someone, that you ascertained that Mr. Hopkins did not, in fact, live at the apartment complex, but that Mr. Wideman better not fire him anyway; wasn't that what you said? A. No, sir, I did not.

Q. You have no recollection of saying that? A. I have none.

Q. You are positive? A. I am positive.

Q. You are saying that you did not say that in my presence? A. I did not.

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THOMAS HOPKINS

REBUTTAL EXAMINATION

Q. (By Mr. Banks) Mr. Hopkins, when you were first hired, what was your day off? A. Well, when I was first hired my day off was Sunday.

Q. How long was it that Sunday remained your day off?
A. Approximately three months.

Q. So then your day off lasted about three months as Sunday; then what day off did you have? A. My day off was Sunday and it was switched to Wednesday at that time. And then it was switched to Saturday for a short period, and then back to Sunday, depending on the weather.

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Q. At all times then, when you were off, whether it was Wednesday, Sunday or Saturday, did anyone replace you? A. Nobody.

Q. Did anyone cover for you? A. No one. Well, actually, I presume, Mr. Banks, that you mean covering my duties?

Q. That is what I mean. A. No, nobody covered my duties.

Q. On the days that you worked, the problem that the tenants had with the boiler, or any other equipment there, or any other problem in that apartment complex as such of an emergency nature, that is, during you off-hour times you would take care of it?

A. That's right.

Q. And there was no one to take care of them that you know about on the days that you were off; is that right? A. That is true.

Q. Once again, Mr. Hopkins, when did you move into your apartment?

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A. I would say it was in September.

541 Q. Did there come a time when you moved out? A. Yes,
I moved out July 22. That was the termination date legally that I was suppose to stop working.

Q. Did you have property or furniture or personal effects still on the premises in that apartment? A. Yes; the apartment is just the way it was, the only thing I did take out of the apartment was a winter jacket, my windbreaker.

Q. I show you Respondent's Exhibit 1 for identification, and ask you if you can identify that (handing.) A. Yes, it looks like my bedroom, yes.

Q. Is that your bedroom as it was while you were living there? A. No, not all the time. I had a bedroom a bed here, and on this wall here, there was a dresser, and an end table. Of course, this is the wrong side of the room, the entrance is over here, and the window is back here, so the room comes this way (indicating).

Q. You said that door that appears to be oepn there from the left of the picture would be the entrance; is that right? A. No, it would be on the left of that; these are the two closets (indicating.)

Q. That is the door to the closet? A. No, this is the door -- you said it properly when you said that is the door to the entrance, the sliding doors are the closets, that is a swinging door (indicating).

542 Q. At what time did you seek to have a bedroom suit taken out of there? A. It was some time after July 8 that we took the bed and the dresser and the night table out, approximately in that area.

Q. Who, if any one, assisted you in taking it out?

A. My son did that.

Q. What vehicle, if any, did you use in connection with it?

A. I think he used a truck, either the one that he had at the time, or his friend's truck.

Q. Did any one assist the two of you in that? A. I wasn't involved in the moving.

Q. He did it, but you were not there? A. Yes, he did it.

Q. I show you what has been marked as Respondent's Exhibit 2, a picture, and ask you if you can identify that (handing). A. Well, this is a picture of the same bedroom, but from the doorway leading in.

Q. What do you see in the picture there, what materials do you see in the picture? A. Well, there is plaster board that was put on there when I brought my tools up from the garage, on a horse, and I think that is a box that has a kitchen cabinet, one of the cabinets in it. And there are various small tools, and there is a kitchen cabinet that was going into the apartment above me, who never had one installed, and we were waiting for it, and that is it. I have a can of spackle on there.

Q. Those materials that you just called out, and other materials that you had in other parts of your apartment, why did you have them there, Mr. Hopkins? A. Well, I had no workshop for seven months that I was in the complex. This was the first time I had any super's job where I didn't have a workshop. And the materials were coming in, being delivered, and I had to take care of them. Now the plumber, he was responsible, they were his materials, and he was worried about the safety of the 100 toilets -- they are not in this picture, they were downstairs.

Q. That is in the rec room? A. Yes. And I had about \$400 or \$500 worth of small boiler parts and motor parts, spare controls; they were downstairs. This was all for safety in my apartment. The paints and compounds that is used on plaster board, and that had to be in a warm place, there were water-based paints and I was using them constantly; and in order to get the work done, and without a workshop, I had to have them some place. And my wife complained bitterly after 26 years of being with me as a super, having to store tools.

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A. (Continuing) So that in order to handle my job the 20 various types of materials that we needed, I had to use my apartment to keep my tools safe where I could keep an eye on them and have them.

Q. Mr. Hopkins, did you have a lease for that apartment that you had? A. No lease, there was no leave on my apartment.

Q. This was an apartment that was yours as part of your compensation for being super of the building? A. I work on a low salary, and I was handed the apartment and my gas and electric and telephone, to compensate for the low salary.

Q. Did anyone tell you that you couldn't put an additional lock on that apartment? A. No, no one.

Q. Did Mr. Halpern tell you that you couldn't put a lock on it? A. No.

Q. Did Mr. Wideman tell you you couldn't put a lock on it? A. No.

Q. The lock that you put on there, was for what kind of security? A. Well, it's a siegel lock, a double bolt, it's a standard lock that is used throughout New York City, and it was put on to protect the supplies that belonged to the landlord, and my personal things.

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Q. Did you give any one a key to your apartment, that is, a key to the main lock in your apartment? A. Nobody would have a key to that, because I had, as I said, other tenants keys in my apartment; I had to be very careful so that nobody had a key to my apartment outside of the bottom lock; they would have had a pass key.

Q. But not a key that you gave them? A. Not a key that I gave them.

Q. No one had a key to the siegel lock you put on? A. No one had a key to the siegel lock outside of my wife and my son, Bob.

Q. You said you had keys belonging to the other tenants; what keys were they? A. They were keys to siegel locks that I had installed for the tenants, and the tenants gave me a spare key. They were worried about the fact that on new construction you have quite a few men running around with pass keys, some of these men are fired and quite a few pass keys are not turned in, and you have this sort of thing. So they gave me a key to their locks.

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Q. (By Mr. Banks) Did you have conversation with Mr. Halpern, conversations about your wife as to whether or not she had moved into the premises, Mr. Hopkins? A. Conversations?

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Q. Yes. A. No.

Q. Did he ever ask you either whether your wife was living there or when she was going to move in? A. There were no conversations about that at all.

Q. Did you have any conversations with Mr. Wideman about your wife moving in the premises? A. No.

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Q. (By Mr. Banks) Did Mr. Wideman ever visit your apartment while Mrs. Hopkins was there? A. That I'm not sure of, whether Mrs. Hopkins was there at the time Mr. Wideman came.

548 Q. Did Mr. Wideman ever ask you about your wife moving in, in a manner that would indicate that he didn't believe that she was living there? A. No.

Q. At anytime? A. No time whatsoever.

Q. About how many times would you say that Mr. Wideman visited your apartment that you know of? A. Well, that would be hard to say. It is very difficult to pin it down in actual numbers.

Q. Did Mr. Wideman ever call you at Yonkers and speak to you while you were in your Yonkers home? A. I can remember speaking maybe once, maybe once; that is as much as I can remember ever speaking to Mr. Wideman.

Q. Do you remember when approximately that one time might have been? A. No, I have no idea on going back. And I don't have the time to use my memory to go back, I can't remember. There was vaguely -- vaguely I do remember his calling me once, but I can't remember what it was about.

549 Q. Did Mr. Halpern call you and speak to you at your Yonkers home? A. Yes; Mr. Halpern called me twice I would say, at the most. Once was on my day off, and I remember that, specifically. There was a floor caused by the stoppage in the main sewer line in the apartments, and he was stuck. It was on Sunday, and I drove up immediately and took care of the job; cleaned up the mess, repaired the sealings, I remember that. There was so much work involved there that I remember that.

Q. Let me ask you, Mr. Hopkins, you heard a young lady testify about a problem that she had in her apartment on Sunday,

June 16; why weren't you there to answer her call on that day?

A. I was off on that day. I remember being off on that day, because when you opened your calendar, I noticed it was Father's Day, and I remember that I was off Father's Day.

Q. That was during the time when Sunday was your day off?

A. Sunday was my day off.

Q. Do you recall the testimony of Mr. Andelman; do you recall having any discussion with him about a boiler needing repair, or anything like that? A. Oh, yes, I had continuous discussions with Mr. Andelman, and justifiably so. He had a child that was not feeling well, and he and his wife had trouble in the apartment and they did feel the lack of heat, or for whatever reason. They would complain when others wouldn't, but his complaints were justified; we were having a lot of trouble with the boiler. He had no thermostat whatsoever down in the basement.

Q. Did you have any to give him, Mr. Hopkins? A. No, I had none. In fact, a big problem there with the heat was at the time when I left the building there were 20 apartments that tenants were

550 living in where they had no thermostats in their playroom, and that is where you need heat, downstairs; it is below the ground, and it is so much below the ground * * *

* * * * *

Q. Among the plumbing supplies and other supplies that you had stored in your apartment, did you have any thermostats?

A. No, no thermostats.

Q. There weren't any on the premises, were there?

A. None on the premises.

Q. When you were off, Mr. Hopkins, did you go to your home in Yonkers, from time to time, to visit? A. From time to time.

Q. Who, if anyone, was living in your home while you were working for Amshu? A. My son Bobby.

Q. Was he the only one who lived there during that time?
A. The only one; my other son had just gotten married, and Bobby was the only one living there.

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SURREBUTTAL EXAMINATION

Q. (By Mr. Kruse) Mr. Hopkins, you said that when you first were hired Sundays were your day off? A. Yes.

Q. How long did that remain your day off? A. I would say about three months, approximately.

Q. Until what month? A. The latter part of December.

Q. Then you were switched to what day? A. Wednesday.

Q. How long did you remain with the day off as Wednesday?
A. Let's see now, I worked and I was off Sundays until December, and then I was switched to Wednesdays -- I would say three months, January, February and March.

Q. And then what day did you go to? A. Saturday.
Saturday was only -- this was a trial and error, I think for three weeks, a short time, that didn't work out.

Q. And then are you saying your day off was -- A. Back to Sunday.

Q. When did it start as Sunday again? A. I would say around April.

Q. Sunday was then your day off until the time you left?
A. That's right.

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MRS. THOMAS HOPKINS

was called as a witness by and on behalf of the General Counsel and, having been previously duly sworn, was examined and testified as follows:

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REBUTTAL EXAMINATION

Q. (By Mr. Banks) Mrs. Hopkins, did you ever meet Mr. Wideman, sitting right there (indicating)? A. Yes.

Q. When and where did you meet him? A. I met him in my apartment.

Q. Do you remember approximately when that was?
A. Pardon me?

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Q. Do you remember approximately when that was?
A. It was in the fall sometime, but I don't remember when it was.

Q. The fall of '73? A. Of '73, yes.

Q. Do you remember approximately what time of day that was? A. No, I don't remember.

Q. Do you remember who else, if anyone, was present?
A. Yes, I met his wife. He introduced me to his wife at the time.

Q. That was in your apartment? A. In my apartment.

Q. Did you ever have a conversation with Mr. Wideman regarding your moving, or whether you lived in the apartment?

A. No, he never mentioned it to me.

Q. Did he ever raise any question with Mr. Hopkins in your presence as to whether you were living, or when you were going to move into the apartment? A. No, not to my knowledge.

Q. Approximately how many times did you see Mr. Wideman during the course of your time there? A. Anywhere or just --

Q. Yes, anywhere? A. I would say a couple of dozen.

556 Q. How many times in your apartment? A. I saw him about three or four times in my apartment.

Q. Did you see any other members of his family in your apartment? A. Yes, he son, Steve.

Q. How long did you see his son Steve in your apartment? A. How many times or what?

Q. Yes, how many times did you see him? A. I would say about a half a dozen.

Q. Would that have been in the evening or in the day, or both? A. I saw him in the evening, he would come in and watch television.

Q. What time in the evening would that be? A. 7:00, 8:00, 9:00.

Q. I believe that you testified before, that during at least part of that time you were working for your son; is that right?

A. Yes.

Q. What were your working hours during that time?

A. They were flexible.

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JUDGE BARBAN: Read the question, please.

(Last question was read.)

JUDGE BARBAN: Could you tell us?

THE WITNESS: Yes, I would leave between 9:00 and 9:30, and I was home between 4:30 and 5:00.

Q. During the time that you lived there, how much time, if any, did you spend at your home in Yonkers? A. Well, at least one night a week, and sometimes it would be two.

Q. What time, if any, did Mr. Hopkins spend there?

A. He usually came home after his working hours on his day off, and he would come home then and sleep there at night.

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Q. (By Mr. Banks) What time, if any, would Mr. Hopkins be at the apartment? A. When the six days were ended he would come home that evening and sleep there that night, and spend the next day.

JUDGE BARBAN: When you are talking about home, where was home?

THE WITNESS: We own a home in Yonkers.

Q. (By Mr. Banks) What time, if any, while Mr. Hopkins was employed at Sleepy Hollow Gardens, did he spend at his home in Yonkers? A. Usually one night a week, that is when his six days were finished.

Q. Did you, at any time, have a bedroom suit in your bedroom at the apartment that Amshu gave you? A. Yes.

Q. At what time was this there, Mrs. Hopkins? A. That was from when we moved up in September, until after my husband was discharged in July.

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Q. Could you describe this bedroom suit for us? A. It was a bed, a dresser, a man's dresser, a night table, he had a lamp.

Q. At what time, if any, did that bedroom suit leave the apartment? A. After July.

Q. Would it have been there in September, any time during September? A. This year, '74? No.

MR. BANKS: No further questions.

SURREBUTTAL EXAMINATION

Q. (By Mr. Kruse) So you now say this bedroom suit left after July? A. Yes.

Q. Do you actually mean after July? In other words, it was after the month of July that the bedroom suit left? A. Yes.

Q. When did it actually come back into the house? A. You mean the date?

Q. Yes, to the best of your recollection? A. Within a week or so.

Q. Of what? A. Of July 22, when he was discharged.

Q. You mean a week before that? A. A. No, after.

560 Q. You are sure it was after? A. Yes.

Q. What makes you so sure? A. Well, what makes me so sure? Because it happened to come down.

Q. It happened to come down where? A. To the house.

Q. What house? A. In Yonkers. It happened to come down to the house in Yonkers. It was brought down.

Q. Brought down from where? A. Spring Valley.

Q. Were you there when the bedroom suit was taken out? A. No.

Q. Where were you? A. I was in Yonkers.

Q. You were home when the bedroom suit came? A. Yes.

Q. It came what date, to the best of your recollection -- was it after July 22 now? A. Yes.

Q. Why are you sure it was after July 22? A. Because of the simple reason that my husband was up working until that date, that was his discharge date, and that is why I'm sure.

561 Q. Who took the bedroom suit out? A. My son.

Q. And who else? A. And Al Rizzo.

Q. Actually, it was before July 22, wasn't it, that the bedroom suit left? A. No.

Q. You are positive? A. Weil, as far as anybody could be positive.

Q. In other words, it was there until the last day your husband worked? A. Yes.

Q. You are absolutely positive it wasn't before hand?
A. I'm positive it wasn't before hand.

Q. So it couldn't have been before July 22?

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Q. (By Mr. Kruse) So that it was actually the day your husband finished work, the last day of work at Amshu, which was July 22, that the bedroom suit was there? A. If that was the date, I would be positive it came not on the 22nd, but it came several days after that.

Q. It came several days after that? A. Yes.

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REDIRECT EXAMINATION

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Q. (By Mr. Banks) These two pictures, one is marked Respondent's Exhibit 1 and the other Respondent's Exhibit 2, and I show you these pictures and ask you if they represent the way your bedroom looked during the time that you lived there (handing)?

JUDGE BARBAN: He asked you if that is the way your bedroom looked at the time you resided there.

A. Is that your question?

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Q. Yes, that's right. A. We, as you entered that part of it was like this, and over on this here side was the bed, the bureau, and the end table and such (indicating).

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JUDGE BARBAN: Mrs. Hopkins, I had some testimony from Mr. Dobutovic who said that he had lunch with your husband in your apartment on two or three occasions, the number may be wrong, and that you were not present; can you account for this?

THE WITNESS: Yes, I worked on certain days; I worked in a jewelry store on certain days.

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ROBERT JOSEPH HOPKINS

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

REBUTTAL EXAMINATION

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Q. (By Mr. Banks) Are you the son of Mr. and Mrs. Hopkins? A. That's right.

Q. What is your occupation, Mr. Hopkins? A. I'm a jeweler.

Q. Did your mother work for you during the time that your father was employed as a superintendent at Amshu? A. Yes.

Q. That was during the day hours; is that right? A. Yes, sir.

Q. You are aware of the time that your father was employed at Amshu, with respect to time? A. Yes.

Q. What years were they? A. That was between 1973 and 1974.

Q. During the time that he was employed there, where did you live? A. I lived at 56 Curtis Lane.

Q. That is your present address? A. Right.

Q. Is that your mother and father's home? A. Yes.

565 Q. During the time that you just mentioned, that is, the time that your father was employed at Amshu, did he live there at that Yonkers address? A. Well, there were a couple of nights that he stayed there, but he didn't live there.

Q. Was that a couple of nights in the same week, or you mean a couple of times. A. No, over a period of time that he was employed.

Q. Did he make visits there, from time to time, during that period? A. Usually on his day off he would come in.

Q. During that same period of time, did your mother live there at that Yonkers address? A. No.

Q. Where did she live, if you know? A. She lived with my father.

Q. That is, at the apartment where he was working?
A. At Sleepy Hollow Gardens, yes.

Q. Mr. Hopkins, there were bills that were going on at the Yonkers address while your mother and father were living at the apartment? A. You mean expenses?

Q. Yes. A. Yes.

566 Q. Who paid those? A. I paid the expenses.

Q. Was there an outstanding mortgage on your house at the time? A. Yes.

Q. If you know, who pays those? A. I supplied all the money that was necessary to pay for the bills during that time.

Q. By supplying, would you explain exactly what your procedures were? A. Sometimes I would write a check, and sometimes my mother would deposit it in her account and make out a check for the amount of the mortgage, or else I would give cash directly.

Q. Do you know, of your own knowledge, Mr. Hopkins, whether or not your father and mother moved to that apartment for Amshu? A. Yes, they did.

Q. How do you know that? A. I helped move them in.

Q. Did you use any kind of vehicle? A. I used a truck.

Q. Who, if anyone, assisted you in that? A. My mother helped and my partner helped.

Q. And your partner's name? A. Al Rizzo.

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SURREBUTTAL EXAMINATION

Q. (By Mr. Kruse) Mr. Hopkins, how frequently did your father come over to visit at your house in Yonkers? A. Approximately once every couple of weeks, or once a week.

Q. Which was it? A. It was in that area.

Q. Was it infrequently, sometimes he would come and sometimes he would not? A. Sometimes I wouldn't see him, and other times I would see him maybe one day, and then a week would go by, and then another day, like that.

Q. During the period when your father first started working at Amshu, at Sleepy Hollow Gardens, when did he usually come home, what day of the week? A. I wouldn't remember that.

Q. No recollection? A. No.

Q. You don't know whether it was a weekend or a weekday? A. I'm really involved in two businesses, and we work seven days a week.

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Q. Were you there when he was there? A. Sometimes.

Q. How frequently were you there? A. Well, over the period of his employment I would say maybe 15 times.

Q. In other words, you were at the Yonkers house during the course of his employment? A. No, I only met with my father when he was making a visit.

Q. So that he wasn't coming over there to visit you, obviously? A. Yes.

Q. In other words, he only came there about 15 times? A. I said 15 times that I met him, I don't know if he came there more.

Q. In other words, he wouldn't call up to say, "I will be there." And that was the way it went? A. Sometimes he would call me, and sometimes I would call him, and sometimes we would make an appointment to meet, or like that.

Q. To your knowledge, he was over at the house around 15 times? A. I'm not saying that he was there approximately 15 times, it was a longer period of time, and the visits were irregular. It's difficult to actually pinpoint what happens so long ago.

Q. In those businesses that you ran, were they stores? A. Yes, part of it was stores.

Q. What was the other part of it? A. A construction business.

569

Q. Did you have an office for the construction business? A. Yes, I had two stores.

Q. Was it your father's practice or custom to give you a telephone call before he came to the house to check on whether or not someone would be there? A. Sometimes he would.

Q. So to the best of your knowledge, your father would come over irrespective of whether or not he knew you were going to be at the house? A. Well, usually he would come over when it was his day off.

Q. Whether you were going to be there or not? A. Right.

Q. Where did your father sleep during these times?

A. He would sleep at the house that night.

Q. Where in the house? A. Which times you are asking specifically?

Q. While he was working at Sleepy Hollow Gardens at the times that he came over to the house and visited and stayed over night, where did he sleep? A. At the house.

Q. Where in the house? A. You mean specifically?

Q. Yes, which room in the house? A. The bedroom.

Q. Which bedroom? A. The bedroom upstairs.

Q. How many bedrooms are there in the house?

A. There are three bedrooms.

Q. How many upstairs? A. Two bedrooms upstairs.

Q. And a bedroom downstairs? A. There is a bedroom downstairs on the first floor, yes.

Q. So the two bedrooms upstairs still have furniture?

A. The bedroom upstairs, one bedroom is my bed.

Q. Your bedroom was upstairs and had furniture?

A. Yes.

Q. Did the other bedroom have furniture in it? A. Yes.

Q. What was in this bedroom? A. It was a small bedroom, and we also had a small bedroom downstairs.

Q. Did your mother come to stay with your father at these times? A. Yes.

Q. Both of them stayed together, to your knowledge?

A. Yes, most of the time. A lot of times I was out late, and I would come back very late and just go back to bed. I would know that they were there because I saw a note on the table or food.

571

Q. You said you came to help your father move some stuff out; was it before he finished his employment at Sleepy Hollow Gardens? A. No, it was after he finished his employment.

Q. When did he finish his employment? A. I believe it was in early July 1974.

Q. What is the best recollection you have? A. I thought the date was July 22.

Q. It was after this date, July 22, that he moved out the furniture? A. Well, I moved out the furniture.

Q. It was after that date? A. Yes.

Q. How much after? A. I would say within a matter of a couple of days.

Q. Was it on that day? A. No.

Q. Was it the next day? A. Within a couple of days.

In other words, I had no time reference at this time, July 22 date was just an arbitrary date, as far as I was concerned, and I didn't relate that date to anything.

Q. But you are sure it wasn't before July 22, right?

A. I was sure that it wasn't before he terminated his employment.

572

Q. So it could have been on the date that he terminated his employment? A. It is possible.

Q. How long did you operate your jewelry shop? A. I believe nine months or a year. This would be -- we are talking about during the time of his employment? We had a couple of jewelry stores.

Q. Did your mother work at both jewelry stores?

A. Yes.

Q. Which jewelry stores did you have? A. At what time?

* * * * *

Q. (By Mr. Kruse) Did you own a jewelry store in September of '73? A. Yes, in Pearl River, New York.

Q. How long did you own that jewelry shop, until what month and what year? A. Well, it was until 1974, and I believe
573 the month was August, I'm not sure about that. We had a fire in the store and that is the reason that we closed that store, but I'm not sure of the month. But it was sometime during the summer.

Q. During July of '74? A. No, no, sometime during the summer; I'm not sure of the exact month, I could find out.

Q. When did you next open up your jewelry store? A. We started up --

Q. Where? A. 33rd Street and Manhattan.

Q. Your mother worked in the store? A. Which store?

Q. The 33rd Street store. A. Yes, she worked there, too.

Q. When did she start working there? A. When we opened up the store.

Q. The construction that you worked in, did you have work for Amshu or do any work for Amshu? A. Yes.

Q. When did you work for Amshu? A. When?

Q. Yes. A. Between September '73 and I believe it was March 6 of '74 about a six month period.

574 Q. Where were you working when you were working for Amshu? A. Country Village Heights Condominiums.

* * * * *

REDIRECT EXAMINATION

Q. (By Mr. Banks) You indicated, Mr. Hopkins, that you moved furniture out, what furniture did you move out for your father? A. The bedroom set.

Q. Just so that the Judge will know, if he is not familiar, perhaps he is, about how far is Pearl River from Nyack from where Amshu is located, from Sleepy Hollow Gardens? A. I would say it is between 10 and 15 minutes.

MR. BANKS: No further questions.

JUDGE BARBAN: By car?

THE WITNESS: Yes.

* * * * *

575

ALEXANDER RIZZO

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

* * * * *

REBUTTAL EXAMINATION

* * * * *

Q. (By Mr. Banks) What is your occupation, Mr. Rizzo?

A. I'm a jeweler.

Q. Are you a partner of Mr. Robert Hopkins? A. Yes.

Q. Do you know Mr. Hopkins sitting there? A. Yes, I do.

Q. Do you know he was employed at Amshu back in 1973?

A. Yes, I do.

576

Q. How do you know that, Mr. Rizzo? A. I got him his job, I called, I made the call to Amshu inquiring about his job, because I knew he was looking for one.

Q. Did you have any further connection with him in relation to the job, other than calling or inquiring about the job? A. Like what?

Q. Well, you are familiar with Mrs. Hopkins, his wife? A. Yes, definitely.

Q. Do you know where Mrs. Hopkins lived during the time that Mr. Hopkins was employed at Amshu? A. Yes; she lived with Mr. Hopkins at Amshu.

Q. How do you know that? A. Well, I picked her up every morning for work.

Q. Where were you taking her to work? A. At my store in Pearl River.

577 Q. Now Pearl River is in the same county as Nyack, that is Rockland County, isn't it? A. Yes; from my store to their apartment was eight minutes.

Q. What time would you normally pick her up? A. Normally 9:00, between 9:00 and 9:30.

Q. What time would you return her? A. It varied, 4:00, 5:00, 5:30, depending on when I got relief at the store to be able to take her home.

Q. Do you know that Mr. Hopkins doesn't work there now, or do you? A. Yes, I do.

Q. How do you know that? A. Well, I'm a partner with his son.

Q. Do you have any other connection with him in connection with him not being there at this time? A. Yes, well now when

I go to Bob's house his mother and father are there. I mean I know the whole family.

Q. Did you have any connection in helping or assisting Mr. Hopkins in getting away from the premises in any manner?

A. Well, after he was dismissed his last working days there, we took their furniture back to Yonkers.

Q. By we, who do you mean? A. Bobby and I.

Q. What furniture did you take back? A. We took a bedroom set.

* * * * *

578

SURREBUTTAL EXAMINATION

* * * * *

579

Q. (By Mr. Kruse) You say you came to pick up a bedroom set; when was it that you picked up the bedroom suit? What month? Let's start with that. A. In July.

Q. You said it was after Mr. Hopkins was fired, didn't you? A. Yes.

Q. Was it after he actually stopped working for Amshu, if you know? A. Yes.

Q. It was after he stopped working for Amshu? A. Yes.

Q. How long after he stopped working for Amshu, to your knowledge? A. I don't know exactly, maybe a few days, a week.

Q. Well, could it have been one day after he stopped working? A. No.

580

Q. Could it have been two? A. No.

Q. Could it have been three? A. Yes.

* * * * *

Q. (By Mr. Kruse) Why do you say it could not have been two days? A. Because I know that there was a problem after he came home to Yonkers, that they had no place to sleep, he and Mrs. Hopkins, because Bob had told me that his parents had no place to sleep, and could I help.

Q. You mean he wouldn't let them sleep in the house, you mean? A. No, there were no beds.

581

Q. He didn't tell you there were no beds in the house in Yonkers did he? A. I am telling you what he told me.

Q. He said that there were no beds in the house in Yonkers for his father to sleep on? A. There was no bedroom set there for them to sleep on.

Q. Did he tell you where his father was sleeping after the last day of his employment? A. Where he was sleeping.

Q. Yes. A. He was sleeping in the house in Yonkers.

Q. Was he sleeping on the floor? A. I have no idea, all he said was that there was no bed, so we have to go right away, and if I could help him.

Q. When you got to the house in Yonkers, did you help bring the bedroom set in?

* * * * *

Q. (By Mr. Kruse) Did you assist in bringing the bedroom set into the house in Yonkers after it got to Yonkers? A. Yes.

Q. Where did you bring the bedroom set? A. Upstairs into the bedroom.

582

Q. What was in the bedroom when you got it up there?

A. What was in the bedroom?

Q. Yes. A. There was a carpet on the floor, there was a night table, and there was another piece of furniture, a dresser,

I believe, some kind of dresser already in the room. And there was a television set, I'm not sure.

Q. Were you in the house downstairs in Yonkers?

A. At what time?

Q. On that day that you delivered the furniture. A. I was in the house, yes.

Q. Is there a living room downstairs to your recollection?
A. Yes.

Q. Did you see the living room? A. Yes.

Q. Was there any furniture in the living room? A. Yes.

Q. What was in the living room?

* * * *

A. A couch, two chairs, a piano, tables.

Q. Do you recollect how many rooms were in the house in Yonkers, to the best of your recollection?

* * * *

A. I believe there were about two bedrooms, a living room, a dining room, and a kitchen.

Q. Was there furniture in the dining room? A. There was a table and chairs.

Q. You said that you would pick Mrs. Hopkins up from the apartment in Spring Valley? A. Yes.

Q. Did you do this on a regular basis, each and every day?
A. Every day she worked, yes.

Q. In September of 1973, do you recollect what days she worked? When did you first start to pick her up? Let's start with tha'. A. As soon as she went up there.

Q. What month was that, to the best of your recollection.

A. September.

Q. When in September? A. I would say the first week.

Q. Would it have been the third week? A. I don't think so, either the first or the second week.

584

Q. When you went into the apartment, you went in there many times? A. In his apartment?

Q. Yes -- many times? A. Yes.

Q. Would you describe the living room as you saw it in his apartment?

* * * * *

A. Furnishings?

Q. Yes, furnishings. A. When you first went into the apartment there was a desk as you walk in at the right side against a double door, and on the left there was a sort of a couch type seat. When you got into the apartment there was a dining area, a round table.

Q. How many couch type seats were in the apartment?

MR. BANKS: At what point in time, would you fix the time?

Q. We will take any time that you care to describe during the time that you were picking Mrs. Hopkins up. A. To the best I can remember, there was one couch, and a couple of chairs.

Q. Could you describe what the couch looked like?

A. It was like a studio couch, with a -- you could use it as a sleeping thing, and it had a cover on it.

585

Q. Are you saying it was a pull out bed? A. No, it wasn't.

Q. Was it a bed or couch that you turn over? A. No, I think when you took the cover off you could use it as a bed.

Q. Is this what one might describe as a metal Army cot?

A. No, it was really a couch with pillows against the wall.

Q. What was the last time you ever picked Mrs. Hopkins up? A. The last time.

Q. Yes. A. At the apartment?

Q. At the apartment. A. Right before, I guess, the end of June or the beginning of July.

Q. Do you know or, tell us to the best of your recollection, when was the last day Mr. Hopkins worked? A. Well, I don't know the last day he worked, but I know the last day -- you mean around the last time that he was at the apartment?

Q. Do you know what the date was that he finished his employment at Amshu? A. No.

Q. Was it in August of 1974? A. I don't think so, it was in July.

* * * * *

586 Q. What days did you pick Mrs. Hopkins up to take her to work? A. It varied, when I needed her, usually three or four times a week. Sometimes when it was the busy season five or six times a week.

587 Q. Did you always pick her up at the Spring Valley apartment? A. Yes.

Q. Was there ever a time once they moved up there -- when did they move up there? A. September.

Q. So, from September until sometime in June or July you were picking her up whenever you needed her to work in the store? A. Yes.

Q. It is your testimony that this was three or four times a week, and it was your testimony it was sometimes more on the busy season? A. Yes.

Q. Was this also on weekends? A. Yes, once in a while on Saturdays when we were busy.

Q. Was there ever a time that she worked that you didn't have to pick her up at the apartment in Spring Valley because she was over in Yonkers? A. No, I never had to take her from Yonkers.

Q. Did she work on Mondays, periodically? A. Yes.

Q. Did she work on Tuesdays, periodically? A. Yes.

Q. Wednesdays periodically? A. Yes, Thursdays and Fridays too.

588

Q. What is your busy season? A. There are several, before each holiday, before Christmas, before Mother's Day, before Father's Day, before Valentine Day, and others like that, graduations.

* * * * *

GENERAL COUNSEL'S EXHIBIT NO. 2

July 8, 1974

Mr. Thomas Hopkins
56 Curtis Lane
Yonkers, New York 10710

Dear Mr. Hopkins:

Prior to the time you were employed in September 1973, you were informed that your position would be one of resident superintendent. You were given, at considerable cost to us, apartment No. 20 Lunney Court, and you told us, prior to being employed, that you would, in fact, move in with your family upon commencing work.

Since that time, we have continually demanded that the move into the apartment be made because your availability at the building is imperative for its efficient and safe operation.

It having become apparent that you have no intention of residing at the building, it has been necessary to replace you with a new superintendent who will reside on the premises.

You will be relieved effective July 22, 1974.

Very truly yours,

William Iefflein
Assistant Vice-President
Amshu Associates, Inc.

WL:aw

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(Tom Hopkins)

GENERAL COUNSEL'S EXHIBIT NO. 3

General Counsel's Ex 3
received in
11/11/74
MP

June 24th, 1974

Amshu Associates
 Mark Weidman
 Old Nyack Turnpike
 Spring Valley, N.Y. 10977

Gentlemen:

Re: Sleepy Hollow Gardens,
 1 Luney Court
 Spring Valley, N.Y. 10977

Please be informed that Local 32 E of the Building Service Employees International Union has been designated by the employees of the above-captioned buildings to act as their collective bargaining agent, pursuant to the New York State Labor Relations Law.

In view of this designation, we are requesting that you communicate with the undersigned within five (5) days from the date of this letter to arrange for a conference relative to the execution of an agreement covering wages, hours, working conditions and benefits for such employees.

In the event that this communication should be ignored, it will be considered a rejection of a request to negotiate, and we shall then take such action as may be necessary to protect the interests of our members.

Very truly yours,

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 INTERNATIONAL UNION, LOCAL 32 E

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NATIONAL LABOR RELATIONS BOARD

Docket No.

OFFICIAL EX

WESTCHESTER ROCKLAND NEWSPAPERS, INC.
One Gannett Drive, White Plains, N.Y. 10604



INVOICE E 41128

In the matter of

Date

No. Pages

Witness

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16B THE JOURNAL-NEWS, FRIDAY, MARCH 22, 1974

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Amshu Associates
 Respondent Ex #4

United States Court of Appeals

FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

v.

AMSHU ASSOCIATES, INC.,

Respondent.

No. 75-4231

CERTIFICATE OF SERVICE

I hereby certify that I have served by hand (by mail) two copies of the
APPENDIX _____ in the above-entitled case, on
the following counsel of record, this 9th day of February, 1976.

Raymond G. Kruse, Esquire
38 Park Row
New York, New York 10038

Raymond G. Kruse, Esquire
1 South Madison Avenue
Spring Valley, New York 10977

Elliott Moore
Deputy Associate General Counsel
National Labor Relations Board
Washington, D.C. 20570

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